

THE
L A W S
New Hampshire Laws. - I
OF THE
STATE OF NEW-HAMPSHIRE,
THE
CONSTITUTION
OF THE
STATE OF NEW-HAMPSHIRE,
AND THE
CONSTITUTION OF THE UNITED STATES,
WITH ITS PROPOSED AMENDMENTS.

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PRINTED BY ORDER OF THE HONORABLE THE GENERAL-COURT.

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STATE OF NEW-HAMPSHIRE:
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1797.





THE
CONSTITUTION
OF
NEW-HAMPSHIRE.

PART I.

BILL OF RIGHTS.



Article I. **A**LL men are born equally free and independent ; therefore all government of right originates from the people, is founded in consent, and instituted for the general good.

II. All men have certain natural, essential and inherent rights —among which are the enjoying and defending life and liberty, acquiring, possessing and protecting property ; and in a word, of seeking and obtaining happiness.

III. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to ensure the protection of others ; and without such an equivalent, the surrender is void.

IV. Among the natural rights, some are in their very nature unalienable ; because no equivalent can be given or received for them : of this kind are the *Rights of Conscience*.

V.

V. Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience and reason ; and no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments, or persuasion ; provided he doth not disturb the public peace or disturb others in their religious worship.

VI. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay, in the hearts of men, the strongest obligations to due subjection ; and as the knowledge of these is most likely to be propagated through a society, by the institution of the public worship of the Deity, and of public instruction in morality and religion ; therefore, to promote those important purposes, the people of this State have a right to empower, and do hereby fully empower the legislature, to authorise, from time to time, the several towns, parishes, bodies corporate or religious societies, within this State, to make adequate provision, at their own expense, for the support and maintenance of public Protestant teachers of piety, religion and morality.

Provided notwithstanding, That the several towns, parishes, bodies corporate, or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

And every denomination of christians, demeaning themselves quietly, and as good subjects of the State, shall be equally under the protection of the law : And no subordination of any one sect or denomination to another, shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry, but all such contracts shall remain, and be in the same state as if this constitution had not been made.

VII. The people of this State have the sole and exclusive right of governing themselves as a free, sovereign and independent

dent State ; and do, and forever hereafter shall exercise and enjoy every power, jurisdiction and right, pertaining thereto, which is not, or may not hereafter be by them expressly delegated to the United States of America in Congress assembled.

VIII. All power residing originally in, and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

IX. No office or place whatsoever in government, shall be hereditary—the abilities and integrity requisite in all, not being transmissible to posterity or relations.

X. Government being instituted for the common benefit, protection and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men ; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may and of right ought to reform the old, or establish a new government. The doctrine of nonresistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

XI. All elections ought to be free, and every inhabitant of the State, having the proper qualifications, has equal right to elect and be elected into office.

XII. Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty and property ; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this State controllable by any other laws than those to which they, or their representative body, have given their consent.

XIII. No person, who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

XIV. Every subject of this State is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive

receive in his person, property, or character ; to obtain right and justice freely, without being obliged to purchase it ; completely and without any denial ; promptly and without delay ; conformably to the laws.

XV. No subject shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally described to him ; or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favourable to himself ; to meet the witnesses against him, face to face ; and to be fully heard in his defence, by himself and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

XVI. No subject shall be liable to be tried, after an acquittal for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment (excepting for the government of the army and navy, and the militia in actual service) without trial by jury.

XVII. In criminal prosecutions, the trial of facts, in the vicinity where they happen, is so essential to the security of the life, liberty, and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed ; except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court, that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

XVIII. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason ; where the same undistinguishing severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences : for the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate mankind.

XIX.

XIX. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions: Therefore, all warrants to search suspected places, or arrest a person for examination or trial, in prosecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order, in a warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued, but in cases, and with the formalities, prescribed by law.

XX. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to a trial by jury, and this method of procedure shall be held sacred, unless in cases arising on the high seas and such as relate to mariners' wages, the legislature shall think it necessary hereafter to alter it.

XXI. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken, that none but qualified persons should be appointed to serve; and such ought to be fully compensated for their travel, time and attendance.

XXII. The LIBERTY OF THE PRESS is essential to the security of freedom in a State: It ought therefore to be inviolably preserved.

XXIII. Retrospective laws are highly injurious, oppressive and unjust. No such laws therefore should be made, either for the decision of civil causes, or the punishment of offences.

XXIV. A well regulated militia is the proper, natural and sure defence of a State.

XXV. Standing armies are dangerous to liberty, and ought not to be raised, or kept up without consent of the legislature.

XXVI. In all cases and at all times, the military ought to be under strict subordination to, and governed by the civil power.

XXVII. No soldier in time of peace, shall be quartered in any

any house, without the consent of the owner ; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No subsidy, charge, tax, impost, or duty, shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature, or authority derived from that body.

XXIX. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXX. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

XXXI. The legislature shall assemble for the redress of public grievances, and for making such laws as the public good may require.

XXXII. The people have a right in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

XXXIII. No magistrate, or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXXIV. No person can in any case be subjected to law-marshal, or to any pains or penalties by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXXV. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights

rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well ; subject however to such limitations on account of age, as may be provided by the constitution of the State ; and that they should have honorable salaries ascertained and established by standing laws.

XXXVI. Oeconomy being a most essential virtue in all States, especially in a young one ; no pension shall be granted, but in consideration of actual services ; and such pensions ought to be granted with great caution by the legislature, and never for more than one year at a time.

XXXVII. In the government of this State, the three essential powers thereof, to wit, the legislative, executive and judicial, ought to be kept as separate from, and independent of each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

XXXVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government ; the people ought therefore to have a particular regard to all those principles in the choice of their officers and representatives : And they have a right to require of their law-givers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of government.

P A R T II.

FORM OF GOVERNMENT.

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THE people inhabiting the territory formerly called the province of New-Hampshire, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign and independent body-politic, or State, by the name of the *State of New-Hampshire.*

GENERAL

GENERAL COURT.

THE supreme legislative power, within this State, shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

The senate and house shall assemble every year on the first Wednesday of June, and at such other times as they may judge necessary ; and shall dissolve, and be dissolved seven days next preceding the said first Wednesday of June ; and shall be styled *The General Court of New-Hampshire.*

The general court shall forever have full power and authority to erect and constitute judicatories, and courts of record, or other courts, to be holden in the name of the State, for the hearing, trying and determining all manner of crimes, offences, pleas, processes, complaints, actions, causes, matters and things whatsoever, arising or happening within this State, or between or concerning persons inhabiting or residing, or brought within the same ; whether the same be criminal or civil, or whether the crimes be capital, or not capital, and whether the said pleas be real, personal, or mixed ; and for the awarding and issuing execution thereon. To which courts and judicatories, are hereby given and granted, full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

And further, full power and authority are hereby given and granted to the said general court, from time to time to make, ordain and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions and instructions, either with penalties, or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this State, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof ; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within this State ; such officers excepted, the election and appointment of whom are hereafter in this form of government otherwise provided for ; and to set forth the several duties, powers and limits, of the several civil and military officers of this State, and the forms of such oaths or affirmations as shall be respectively administered unto them, for the execution of their several offices and places, so as the same be

be not repugnant or contrary to this constitution ; and also to impose fines, mulcts, imprisonments and other punishments ; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents within the said State ; and upon all estates within the same ; to be issued and disposed of by warrant, under the hand of the governor of this State for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of this State, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practised ; in order that such assessments may be made with equality, there shall be a valuation of the estates within the State taken anew once in every five years at least, and as much oftener as the general-court shall order.

No member of the general-court shall take fees, be of counsel, or act as advocate, in any cause before either branch of the legislature ; and upon due proof thereof, such member shall forfeit his seat in the legislature.

The doors of the galleries, of each house of the legislature, shall be kept open to all persons who behave decently, except when the welfare of the State, in the opinion of either branch, shall require secrecy.

HOUSE OF REPRESENTATIVES.

THERE shall be, in the legislature of this State, a representation of the people, annually elected and founded upon principles of equality : And in order that such representation may be as equal as circumstances will admit, every town, parish, or place entitled to town privileges, having one hundred and fifty rateable male polls, of twenty-one years of age and upwards, may elect one representative ; if four hundred and fifty rateable polls, may elect two representatives ; and so proceeding in that proportion, making three hundred such rateable polls the mean increasing number, for every additional representative.

Such towns, parishes, or places, as have less than one hundred and fifty rateable polls, shall be classed by the general-court for the purpose of choosing a representative, and seasonably notified thereof.

thereof. And in every class, formed for the abovementioned purpose, the first annual meeting shall be held in the town, parish, or place, wherein most of the rateable polls reside ; and afterwards in that which has the next highest number ; and so on annually by rotation, through the several towns, parishes, or places, forming the district.

Whenever any town, parish, or place, entitled to town privileges as aforesaid, shall not have one hundred and fifty rateable polls, and be so situated as to render the classing thereof with any other town, parish, or place, very inconvenient, the general-court may, upon application of a majority of the voters in such town, parish, or place, issue a writ for their electing and sending a representative to the general-court.

The members of the house of representatives shall be chosen annually in the month of March, and shall be the second branch of the legislature.

All persons qualified to vote in the election of senators, shall be entitled to vote within the district where they dwell, in the choice of representatives. Every member of the house of representatives shall be chosen by ballot ; and for two years at least, next preceding his election, shall have been an inhabitant of this State ; shall have an estate within the district which he may be chosen to represent, of the value of one hundred pounds, one half of which to be a freehold, wherof he is seized in his own right ; shall be at the time of his election an inhabitant of the town, parish or place he may be chosen to represent, shall be of the protestant religion, and shall cease to represent such town, parish or place, immediately on his ceasing to be qualified as aforesaid.

The members of both houses of the legislature shall be compensated for their services out of the treasury of the State, by a law made for that purpose ; such members attending seasonably, and not departing without licence. All intermediate vacancies in the house of representatives, may be filled up from time to time, in the same manner as annual elections are made.

The house of representatives shall be the grand inquest of the State ; and all impeachments made by them, shall be heard and tried by the senate.

All

All money bills shall originate in the house of representatives ; but the senate may propose, or concur with amendments, as on other bills.

The house of representatives shall have power to adjourn themselves, but no longer than two days at a time.

A majority of the members of the house of representatives shall be a quorum for doing business ; but when less than two thirds of the representatives elected shall be present, the assent of two thirds of those members shall be necessary to render their acts and proceedings valid.

No member of the house of representatives or senate, shall be arrested or held to bail on mean process, during his going to, returning from, or attendance upon the court.

The house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house ; and shall be judge of the returns, elections and qualifications of its members, as pointed out in this constitution. They shall have authority to punish by imprisonment, every person who shall be guilty of disrespect to the house in its presence, by any disorderly and contemptuous behavior, or by threatening or ill treating any of its members ; or by obstructing its deliberations ; every person guilty of a breach of its privileges, in making arrests for debt, or by assaulting any member during his attendance at any session ; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house ; in assaulting any witness or other person, ordered to attend, by, and during his attendance upon the house ; or in rescuing any person arrested by order of the house, knowing them to be such.—The senate, governor and council, shall have the same powers in like cases : provided, that no imprisonment by either, for any offence, exceed ten days.

The journals of the proceedings, and all public acts of both houses of the legislature, shall be printed & published immediately after every adjournment or prorogation ; & upon motion made by any one member, the yeas and nays upon any question shall be entered in the journals ; and any member of the senate or house of representatives, shall have a right on motion made at the time for that purpose, to have his protest or dissent, with the reasons, against any vote, resolve, or bill passed, entered on the journal.

SENATE

S E N A T E.

THE senate shall consist of twelve members, who shall hold their office for one year from the first Wednesday of June next ensuing their election.

And that the State may be equally represented in the senate, the legislature shall, from time to time, divide the State into twelve districts, as nearly equal as may be without dividing towns and unincorporated places; and in making this division, they shall govern themselves by the proportion of direct taxes paid by the said districts, and timely make known to the inhabitants of the State the limits of each district.

The freeholders and other inhabitants of each district, qualified as in this constitution is provided, shall annually give in their votes for a senator, at some meeting holden in the month of March.

The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz. Every male inhabitant of each town, and parish with town privileges, and places unincorporated, in this State, of twenty-one years of age and upwards, excepting paupers, and persons excused from paying taxes at their own request, shall have a right, at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the senator in the district whereof he is a member.

Provided nevertheless, That no person shall be capable of being elected a senator, who is not of the *Protestant religion*, and seized of a freehold estate in his own right, of the value of two hundred pounds, lying within this State, who is not of the age of thirty years, and who shall not have been an inhabitant of this State for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

And every person, qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in the town, parish and plantation, where he dwelleth and hath his home.

And

And the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators, in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose shall be holden annually in the month of March, at such places respectively therein as the assessors thereof shall direct ; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town-clerks have in their several towns by this constitution.

The meetings for the choice of governor, council, and senators, shall be warned by warrant from the selectmen, and governed by a moderator, who shall in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and parishes present, and qualified to vote for senators ; and shall, in said meetings, in presence of the said selectmen, and of the town clerk in said meeting, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person ; and the town clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the secretary of the State, with a superscription expressing the purport thereof: And the said town clerk shall cause such attested copy to be delivered to the sheriff of the county in which such town or parish shall lie, thirty days at least before the first Wednesday of June, or to the secretary of State at least twenty days before the said first Wednesday of June: And the sheriff of each county, or his deputy, shall deliver all such certificates, by him received, into the secretary's office, at least twenty days before the first Wednesday of June.

And that there may be a due meeting of senators on the first Wednesday of June annually, the governor, and a majority of the council for the time being, shall as soon as may be, examine the returned copies of such records, and fourteen days before the first Wednesday of June, he shall issue his summons to such persons as appear to be chosen senators, by a majority of votes, to attend and take their seats on that day.

C

Provided

Provided nevertheless, That for the first year the said returned copies shall be examined by the president, and a majority of the council then in office ; and the said president shall in like manner notify the persons elected, to attend and take their seats accordingly.

And in case there shall not appear to be a senator elected by a majority of votes, for any district, the deficiency shall be supplied in the following manner, viz. The members of the house of representatives, and such senators as shall be declared elected, shall take the names of the two persons having the highest number of votes in the district, and out of them shall elect, by joint ballot, the senator wanted for such district ; and in this manner all such vacancies shall be filled up in every district of the State, and in like manner all vacancies in the senate, arising by death, removal out of the State, or otherwise, shall be supplied as soon as may be after such vacancies happen.

The senate shall be final judges of the elections, returns and qualifications of their own members, as pointed out in this constitution.

The senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

Provided nevertheless, That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the legislature be not assembled on such day, or at such place.

The senate shall appoint their president and other officers, and determine their own rules of proceedings : And not less than seven members of the senate shall make a quorum for doing business ; and when less than eight senators shall be present, the assent of five at least, shall be necessary to render their acts and proceedings valid.

The senate shall be a court, with full power and authority to hear, try and determine, all impeachments made by the house of representatives against any officer or officers of the State, for bribery, corruption, mal-practice, or mal-administration, in office ; with full power to issue summons, or compulsory process, for convening witnesses before them : But previous to the trial of any such impeachment, the members of the senate shall respectively

respectively be sworn truly and impartially to try and determine the charge in question, according to evidence. And every officer, impeached for bribery, corruption, mal-practice or mal-administration in office, shall be served with an attested copy of the impeachment, and order of senate thereon, with such citation as the senate may direct, setting forth the time and place of their sitting to try the impeachment; which service shall be made by the sheriff, or such other sworn officer as the senate may appoint, at least fourteen days previous to the time of trial; and such citation being duly served and returned, the senate may proceed in the hearing of the impeachment, giving the person impeached (if he shall appear) full liberty of producing witnesses and proofs, and of making his defence, by himself and counsel, and may also, upon his refusing or neglecting to appear, hear the proofs in support of the impeachment, and render judgment thereon, his non-appearance notwithstanding; and such judgment shall have the same force and effect as if the person impeached had appeared and pleaded in the trial. Their judgment however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit, under this State; but the party so convicted, shall nevertheless be liable to indictment, trial, judgment and punishment, according to the laws of the land.

Whenever the governor shall be impeached, the chief justice of the supreme judicial court shall, during the trial, preside in the senate, but have no vote therein.

EXECUTIVE POWER. GOVERNOR.

THERE shall be a supreme executive magistrate, who shall be styled the governor of the State of New-Hampshire, and whose title shall be *His Excellency*.

The governor shall be chosen annually in the month of *March*; and the votes for governor shall be received, sorted, counted, certified and returned, in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives, on the first Wednesday of June, to be by them examined, and in case of an election by a majority of votes through the State, the choice shall be by them declared and published.

And the qualifications of electors of the governor shall be the same as those for senators; and if no person shall have a majori-

ty of votes, the senate and house of representatives shall by joint ballot elect one of the two persons having the highest number of votes, who shall be declared governor.

And no persons shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this State for seven years next preceding, and unless he shall be of the age of thirty years, and unless he shall at the same time have an estate of the value of five hundred pounds, one half of which shall consist of a freehold in his own right within this State, and unless he shall be of the Protestant religion.

In cases of disagreement between the two houses with regard to the time or place of adjournment or prorogation, the governor with advice of council, shall have a right to adjourn or prorogue the general-court, not exceeding ninety days at any one time, as he may determine the public good may require, and he shall dissolve the same seven days before the said first Wednesday of June.

And in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause, whereby dangers may arise to the health or lives of the members from their attendance, the governor may direct the session to be holden at some other the most convenient place within the State.

Every bill which shall have passed both houses of the general-court, shall before it become a law, be presented to the governor; if he approve, he shall sign it, but if not, he shall return it with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it, if after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with such objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons, voting for or against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor, within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law.

Every

Every resolve shall be presented to the governor, and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

All judicial officers; the attorney general, solicitors, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field officers of the militia, shall be nominated and appointed by the governor and council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place, unless a majority of the council agree thereto. The governor and council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the governor and council, and every negative shall be also signed by the governor or council who made the same.

The captains and subalterns in the respective regiments, shall be nominated and recommended by the field officers to the governor, who is to issue their commissions immediately on receipt of such recommendation.

Whenever the chair of the governor shall become vacant, by reason of his death, absence from the State, or otherwise, the president of the senate shall during such vacancy, have and exercise all the power and authorities which, by this constitution the governor is vested with, when personally present; but when the president of the senate shall exercise the office of governor, he shall not hold his office in the senate.

The governor with advice of council, shall have full power and authority in the recess of the general-court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court; and during the sessions of said court, to adjourn or prorogue it to any time the two houses may desire, and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the State should require the same.

The governor of this State for the time being, shall be commander in chief of the army and navy, and all the military forces of the State, by sea and land; and shall have full power by himself, or by any chief commander, or other officer or officers, from
time

time to time, to train, instruct, exercise and govern the militia and navy ; and for the special defence and safety of this State, to assemble in martial array, and put in warlike posture the inhabitants thereof, and to lead and conduct them, and with them to encounter, repulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this State ; and also to kill, slay, destroy if necessary, and conquer by all fitting ways, enterprize and means, all and every such person and persons as shall at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment or annoyance of this State ; and to use and exercise over the army and navy, and over the militia in actual service, the law martial in time of war, invasion, and also in rebellion, declared by the legislature to exist as occasion shall necessarily require : And surprize by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade, or attempt the invading, conquering or annoying this State ; and in fine, the governor hereby is entrusted with all other powers incident to the office of captain general and commander in chief and admiral, to be exercised agreeably to the rules and regulations of the constitution and the laws of the land : Provided, that the governor shall not at any time hereafter, by virtue of any power by this constitution granted or hereafter to be granted to him by the legislature, transport any of the inhabitants of this State, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court, nor grant commissions for exercising the law martial in any case, without the advice and consent of the council.

The power of pardoning offences, except such as persons may be convicted of before the senate by impeachment of the house, shall be in the governor, by and with the advice of the council : But no charter of pardon granted by the governor with advice of council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

No officer duly commissioned to command in the militia shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the State for the time being.

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The commanding officers of the regiments shall appoint their adjutants and quarter-masters ; the brigadiers, their brigade-majors ; the major-generals, their aids ; the captains and subalterns, their non-commissioned officers.

The division of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper division of the militia of this State, until the same shall be altered by some future law.

No monies shall be issued out of the treasury of this State and disposed of (except such sums as may be appropriated for the redemption of bills of credit, or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, by and with the advice and consent of the council, for the necessary support and defence of this State, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general-court.

All public boards, the commissary-general, all superintending officers of public magazines and stores belonging to this State, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially and without requisition, and at other times when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon, with their appendages, and all small arms with their accoutrements, and of all other public property under their care respectively ; distinguishing the quantity and kind of each, as particularly as may be ; together with the condition of such forts and garrisons ; and the commanding officer shall exhibit to the governor, when required by him true and exact plans of such forts, and of the land and sea, or harbour or harbours adjacent.

The governor and council shall be compensated for their services, from time to time, by such grants as the general-court shall think reasonable.

Permanent and honorable salaries shall be established by law, for the justices of the superior court.

COUNCIL.

THERE shall be annually elected by ballot five counsellors, for advising the governor in the executive part of government.

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The freeholders and other inhabitants in each county, qualified to vote for senators, shall some time in the month of March, give in their votes for one counsellor ; which votes shall be received, sorted, counted, certified and returned to the secretary's office, in the same manner as the votes for senators, to be by the secretary laid before the senate and house of representatives on the first Wednesday of June.

And the person having a majority of votes in any county, shall be considered as duly elected a counsellor : But if no person shall have a majority of votes in any county, the senate and house of representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of those two, shall elect by joint ballot, the counsellor wanted for such county, and the qualifications for counsellors shall be the same as for senators.

If any person thus chosen a counsellor, shall be elected governor or member of either branch of the legislature, and shall accept the trust ; or if any person elected a counsellor, shall refuse to accept the office ; or in case of the death, or resignation, or removal of any counsellor out of the State ; the governor may issue a precept for the election of a new counsellor in that county where such vacancy shall happen ; and the choice shall be in the same manner as before directed : And the governor shall have full power and authority to convene the council, from time to time, at his discretion ; and with them, or the majority of them, may and shall from time to time hold a council for ordering and directing the affairs of the State according to the laws of the land.

The members of the council may be impeached by the house and tried by the senate, for bribery, corruption, mal-practice, or mal-administration.

The resolutions and advice of the council shall be recorded by the secretary in a register, and signed by all the members present agreeing thereto ; and this record may be called for at any time by either House of the legislature ; and any member of the council may enter his opinion contrary to the resolutions of the majority, with the reasons for such opinion.

The Legislature may, if the public good shall hereafter require it, divide the State into five districts, as nearly equal as may

may be, governing themselves by the number of rateable polls, and proportion of public taxes; each district to elect a counselor: And in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

And whereas the elections appointed to be made by this constitution on the first Wednesday of June annually by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day, until the same be completed; and the order of the elections shall be as follows: The vacancies in the senate (if any) shall be first filled up: The governor shall then be elected, provided there shall be no choice of him by the people: And afterwards the two houses shall proceed to fill up the vacancy (if any) in the council.

SECRETARY, TREASURER, COMMISSARY-GENERAL, &c.

THE secretary, treasurer, and commissary-general, shall be chosen by joint ballot of the senators and representatives assembled in one room.

The records of the State shall be kept in the office of the secretary, and he shall attend the governor and council, the senate, and representatives, in person or by deputy, as they may require.

The secretary of the State shall at all times have a deputy, to be by him appointed; for whose conduct in office he shall be responsible: And in case of the death, removal, or inability, of the secretary, his deputy shall exercise all the duties of the office of secretary of this State, until another shall be appointed.

The secretary before he enters upon the business of his office, shall give bond with sufficient sureties, in a reasonable sum, for the use of the State, for the punctual performance of his trust.

COUNTY TREASURER, &c.

THE county treasurers and registers of deeds, shall be elected by the inhabitants of the several towns, in the several counties in the State, according to the method now practised, and the laws of the State.

Provided nevertheless, The legislature shall have authority to alter the manner of certifying the votes and the mode of electing those

those officers ; but not so as to deprive the people of the right they now have of electing them.

And the legislature, on the application of the major part of the inhabitants of any county, shall have authority to divide the same into two districts for registering deeds, if to them it shall appear necessary ; each district to elect a register of deeds : And before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond, with sufficient sureties, in a reasonable sum, for the use of the county, for the punctual performance of their respective trusts.

JUDICIARY POWER.

THE tenure that all commissioned officers shall have by law in their offices, shall be expressed in their respective commissions—all judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting those concerning whom there is a different provision made in this constitution : *Provided nevertheless*, the governor, with consent of council, may remove them upon the address of both houses of the legislature.

Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the superior court, upon important questions of law and upon solemn occasions.

In order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall become void at the expiration of five years from their respective dates, and upon the expiration of any commission the same may if necessary be renewed, or another person appointed, as shall most conduce to the well being of the State.

All causes of marriage, divorce and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court until the legislature shall by law make other provision.

The general court are empowered to give to justices of the peace, jurisdiction in civil causes, when the damages demanded shall not exceed *four pounds* and title of real estate is not concerned ;

cerned ; but with right of appeal to either party, to some other court, so that a trial by jury in the last resort may be had.

No person shall hold the office of judge of any court, or judge of probate, or sheriff of any county, after he has attained the age of seventy years.

No judge of any court, or justice of the peace, shall act as an attorney, or be of counsel to any party, or originate any civil suit, in matters which shall come or be brought before him as judge, or justice of the peace,

All matters relating to the probate of wills and granting letters of administration, shall be exercised by the judges of probate, in such manner as the legislature have directed, or may hereafter direct ; and the judges of probate shall hold their courts at such place or places, on such fixed days, as the conveniency of the people may require and the legislature from time to time appoint.

No judge, or register of probate shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending, or may be brought into any court of probate in the county of which he is judge or register.

CLERKS OF COURT.

THE judges of the courts (those of probate excepted) shall appoint their respective clerks, to hold their office during pleasure : And no such clerk shall act as an attorney, or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action.

Encouragement of Literature, &c.

KNOWLEDGE and learning, generally diffused through a community, being essential to the preservation of a free government ; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end ; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country ; to countenance and inculcate the principles

ciples of humanity and general benevolence, public and private charity, industry and œconomy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people.

Oath and Subscriptions, Exclusion from Offices, Commissions, Writs, &c. &c. &c.

ANY person chosen governor, counsellor, senator, or representative, military or civil officer, (town officers excepted) accepting the trust, shall before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz.

I, A. B. do solemnly swear, that I will bear faith and true allegiance to the State of New-Hampshire, and will support the constitution thereof. *So help me God.*

I, A. B. do solemnly and sincerely swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as according to the best of my abilities, agreeably to the rules and regulations of this constitution, and the laws of the State of New-Hampshire. *So help me God.*

Any person having taken and subscribed the oath of allegiance, and the same being filed in the secretary's office, shall not be obliged to take said oath again.

Provided always, When any person chosen or appointed as aforesaid, shall be of the denomination called quakers, or shall be scrupulous of swearing, and shall decline taking the said oaths, such person shall take and subscribe them, omitting the word *swear*, and likewise the words *so help me God*, subjoining instead thereof, *This I do under the pains and penalties of perjury.*

And the oaths or affirmations shall be taken and subscribed by the governor, before the president of the senate, in presence of both houses of the legislature, and by the senators and representatives first elected under this Constitution, as altered and amended, before the president of the State, and a majority of the council then in office, and forever afterwards before the governor and council for the time being; and by all other officers, before such persons and in such manner as the legislature shall from time to time appoint.

All commissions shall be in the name of the State of New-Hampshire,

Hampshire, signed by the governor and attested by the secretary, or his deputy, and shall have the great seal of the State affixed thereto.

All writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the State of New-Hampshire; shall be under the seal of the court whence they issue, and bear test of the chief, first, or senior justice of the court; but when such justice shall be interested, then the writ shall bear test of some other justice of the court to which the same shall be returnable; and be signed by the clerk of such court.

All indictments, presentments, and informations, shall conclude, *against the peace and dignity of the State.*

The estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

All the laws which have heretofore been adopted, used, and approved, in the province, colony, or State of New-Hampshire, & usually practised on in the courts of law, shall remain & be in full force, until altered and repealed by the legislature; such parts thereof only excepted, as are repugnant to the rights and liberties contained in this constitution: Provided that nothing herein contained, when compared with the 23d article in the bill of rights, shall be construed to affect the laws already made respecting the persons, or estates of absentees.

The privilege and benefit of the habeas corpus, shall be enjoyed in this State, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

The enacting stile in making and passing acts, statutes, and laws, shall be—*Be it enacted by the Senate and House of Representatives in General-Court convened.*

No governor, or judge of the supreme judicial court, shall hold any office or place under the authority of this State, except such

such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the office of justice of the peace throughout the State ; nor shall they hold any place or office, or receive any pension or salary, from any other State, Government or power whatever.

No person shall be capable of exercising at the same time, more than one of the following offices within this State, viz. judge of probate, sheriff, register of deeds ; and never more than two offices of profit, which may be held by appointment of the governor, or governor and council, or senate and house of representatives, or superior or inferior courts ; military offices and offices of justices of the peace excepted.

No person holding the office of judge of any court (except special judges) secretary, treasurer of the State, attorney-general, commissary-general, military officers receiving pay from the Continent or this State (excepting officers of the militia, occasionally called forth on an emergency) register of deeds, sheriff, or officers of the customs, including naval officers, collectors of excise and State and Continental taxes, hereafter appointed and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of congress, or any person holding any office under the United States, shall at the same time hold the office of governor, or have a seat in the senate, or house of representatives, or council ; but his being chosen and appointed to, and accepting the same, shall operate as a resignation of their seat in the chair, senate, or house of representatives, or council ; and the place so vacated shall be filled up. No member of the council shall have a seat in the senate or house of representatives.

No person shall ever be admitted to hold a seat in the legislature or any office of trust or importance, under this government, who in the due course of law has been convicted of bribery or corruption in obtaining an election or appointment.

In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver at six shillings and eight pence per ounce.

To the end that there may be no failure of justice, or danger to the State, by the alterations and amendments made in the constitution, the general-court is hereby fully authorized and directed

directed to fix the time when the alterations and amendments shall take effect, and make the necessary arrangements accordingly.

It shall be the duty of the selectmen and assessors, of the several towns and places in this State, in warning the first annual meeting for the choice of senators, after the expiration of seven years from the adoption of this constitution as amended, to insert expressly in the warrant, this purpose among the others for the meeting, to wit, to take the sense of the qualified voters on the subject of a revision of the constitution; and the meeting being warned accordingly (and not otherwise) the moderator shall take the sense of the qualified voters present, as to the necessity of a revision; and a return of the number of votes for & against such necessity, shall be made by the clerk, sealed up and directed to the general-court, at their then next session; and if it shall appear to the general-court by such return, that the sense of the people of the State has been taken, and that in the opinion of the majority of the qualified voters in the State, present and voting at said meetings, there is a necessity for a revision of the constitution, it shall be the duty of the general-court to call a convention for that purpose, otherwise the general-court shall direct the sense of the people to be taken, and then proceed in the manner before mentioned. The delegates to be chosen in the same manner, and proportioned as the representatives to the general-court; provided that no alterations shall be made in this constitution, before the same shall be laid before the towns and unincorporated places, and approved by two thirds of the qualified voters present and voting on the subject.

And the same method of taking the sense of the people, as to a revision of the constitution, and calling a convention for that purpose, shall be observed afterwards, at the expiration of every seven years.

This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the books containing the laws of this State, in all future editions thereof.

*In Convention, held at Concord the fifth day of
September, Anno Domini, 1792.*

THE returns from the several towns and unincorporated places, being examined, and it appearing that the foregoing bill of rights and form of government, as amended by the convention, were approved by more than two thirds of the qualified voters present in the meetings, and voting upon the question ; the same are agreed on and established by the delegates of the people in convention, and declared to be the civil constitution of the State of New-Hampshire.

SAMUEL LIVERMORE,

President of the Convention.

Attest, **JOHN CALFE,** Secretary.



THE
C O N S T I T U T I O N
O F T H E
U N I T E D S T A T E S.



We the People of the United States, in order to form a more perfect Union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

A R T I C L E I.

SECT. 1. **A**LL legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives.

SECT. 2. The house of representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

REPRESENTATIVES and direct taxes shall be apportioned among the several States which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first

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meeting

meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of *New-Hampshire* shall be entitled to choose three—*Massachusetts* eight—*Rhode-Island* and *Providence-Plantations* one—*Connecticut* five—*New-York* six—*New-Jersey* four—*Pensylvania* eight—*Delaware* one—*Maryland* six—*Virginia* ten—*North-Carolina* five—*South-Carolina* five—and *Georgia* three.

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECT. 3. The senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

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The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

SECT. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each State by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECT. 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question, shall, at the desire of one fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECT 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and part

paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created; or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SECT. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall before it become a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

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SECT. 8. The congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States ; but all duties, imposts, and excises shall be uniform throughout the United States ;

To borrow money on the credit of the United States ;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes ;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States ;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures ;

To provide for the punishment of counterfeiting the securities and current coin of the United States ;

To establish post-offices and post-roads ;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors, the exclusive right to their respective writings and discoveries ;

To constitute tribunals inferior to the supreme court ;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water ;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years ;

To provide and maintain a navy ;

To make rules for the government and regulation of the land and naval forces ;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions ;

To provide for organizing, arming, and disciplining the militia,

tia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress ;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings ;—And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECT. 9. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any State.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another ; nor shall vessels bound to, or from one State, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law ; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

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No title of nobility shall be granted by the United States:— And no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

SECT. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No State shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECT. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:

Each State shall appoint, in such manner, as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the congress: But no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed

directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list, the said house shall, in like manner choose the president. But in choosing the president, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.

The congress may determine the time of choosing the electors and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished, during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before

Before he enter on the execution of his office, he shall take the following oath or affirmation :—" I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States."

SECT. 2. The president shall be commander in chief of the army and navy of the United States; and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies, that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SECT. 3. He shall from time to time give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECT. 4. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery or other high crimes and misdemeanors.

ARTICLE III.

SECT. 1. The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECT. 2. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the congress may by law have directed.

SECT. 3. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE

ARTICLE IV.

SECT. 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECT. 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECT. 3. New States may be admitted by the congress into this union: But no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules, and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECT. 4. The United States shall guarantee to every State in this union, a republican form of government; and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE IV.

The congress, whenever two thirds of both houses shall deem necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three fourths

fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the congress; *Provided*, That no amendment which may be made prior to the year one thousand, eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the senate.

A R T I C L E VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this constitution: But no religious test shall ever be required as a qualification to any office or public trust under the United States.

A R T I C L E VII.

The ratification of the conventions of nine States shall be sufficient for the establishment of this constitution between the States so ratifying the same.

Done in convention by the unanimous consent of the States present the 17th day of September, in the year of our Lord 1787, and of the independence of the United States of America, the twelfth.
In witness whereof we have hereunto subscribed our names.

GEORGE WASHINGTON, *President, and deputy from Virginia*
New-Hampshire. John Langdon, Nicholas Gilman.

Massachusetts. Nathaniel Gorham, Rufus King.

Connecticut. William S. Johnson, Roger Sherman.

New-York. Alexander Hamilton.

New-Jersey. William Livingston, David Brearly, William Patterson, Jonathan Dayton.

Pennsylvania. Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzsimons, Jared Ingersoll, James Wilson, Gouverneur Morris.

Delaware. George Read, Gunning Bedford, jun. John Dickinson, Richard Bassett, Jacob Broom.

Maryland.

Maryland. James M'Henry, Daniel of St. Thomas Jenifer, Daniel Carroll.

Virginia. John Blair, James Madison, jun.

North-Carolina. William Blount, Richard Dobbs Spaight, Hugh Williamson.

South-Carolina. John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.

Georgia. William Few, Abraham Baldwin.

ATTEST, WILLIAM JACKSON, *Secretary.*

IN CONVENTION, MONDAY, SEPTEMBER 17, 1787.

P R E S E N T,

The States of *New-Hampshire, Massachusetts, Connecticut, Mr. Hamilton from New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia;*

RESOLVED, That the preceding constitution be laid before the United States in Congress assembled, and that it is the opinion of this convention, that it should afterwards be submitted to a convention of delegates, chosen in each State by the people thereof, under the recommendation of its legislature, for their assent and ratification, and that each convention assenting to, and ratifying the same, should give notice thereof to the United States in Congress assembled.

RESOLVED, That it is the opinion of this convention, that as soon as the conventions of nine States shall have ratified this constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the States which shall have ratified the same, and a day on which the electors should assemble to vote for the president, and the time and place for commencing proceedings under this constitution. That after such publication the electors should be appointed, and the senators and representatives elected: That the electors should meet on the day fixed for the election of the president, and should transmit their votes certified, signed, sealed and directed, as the constitution requires, to the secretary of the United States in congress assembled: That the senators and representatives should convene at the time and place assigned: That the senators should appoint a president of the senate for the sole purpose of receiving, opening and counting the votes for president; and, that after he shall be chosen, the congress, together with the president, should, without delay, proceed to execute this constitution.

By the unanimous order of the convention,

GEORGE WASHINGTON, *PRESIDENT.*

WILLIAM JACKSON, *Secretary.*

CONGRESS OF THE UNITED STATES, begun and held at the City of New-York, on Wednesday, the fourth of March, one thousand seven hundred and eighty-nine.

The Conventions of a number of the States having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the government will best ensure the beneficent ends of its institution—

RESOLVED, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both houses concurring, that the following articles be proposed to the legislatures of the several States, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid to all intents and purposes, as part of the said constitution, viz:

Articles in addition to, and amendment of, The Constitution of the United States of America, proposed by congress and ratified by the legislatures of the several States, pursuant to the fifth article of the original constitution.

Article the first. After the first enumeration required by the first article of the constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which the proportion shall be so regulated by congress, that there shall not be less than two hundred representatives, nor more than one representative for every fifty thousand persons,

Article the second. No law varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.

Article

Article the third. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Article the fourth. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Article the fifth. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Article the sixth. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article the seventh. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

Article the eighth. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Article the ninth. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury, shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

Article

Article the tenth. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article the eleventh. The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

Article the twelfth. The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

FREDERICK A. MUHLENBERG, *Speaker
of the House of Representatives.*

JOHN ADAMS, *Vice-President of the United States,
and President of the Senate.*

Attest,

JOHN BECKLEY, *Clerk of the House of Representatives.*
SAMUEL A. OTIS, *Secretary of the Senate.*





AN ACT to ratify an article proposed in amendment to the constitution of the United States.

Approved
June 20.
1794.

WHEREAS in the third Congress of the United States at the first session, begun and held at the city of Philadelphia in the State of Pennsylvania, on Monday the second of December, one thousand seven hundred and ninety-three; it was resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both houses concurring, that the following article be proposed to the Legislatures of the several States, as an amendment of the constitution of the United States, which when ratified by three fourths of the said Legislatures, shall be valid, as part of the said constitution, viz.

Preamble.

The judicial power of the United States shall not be construed to extend to any suit in law, or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

The Article.

And whereas such amendment, as an article of the constitution of the United States, is necessary to establish harmony between the Federal and State governments, and to ensure the exercise of their several and distinct powers.

Therefore,

BE it enacted by the Senate and House of Representatives in General-Court convened, That the amendment proposed by the senate and house of representatives of the United States of America in congress assembled, two thirds of both houses concurring, be, and hereby is ratified, and confirmed on the part of the State of New-Hampshire, as an amendment, and article of the constitution of the United States in the following terms, viz.

Enacting
clause.

The judicial power of the United States shall not be construed to extend to any suit in law, or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State.

Approved June 20, 1794.

Passed Dec.
14, 1792.

Constitution
to take effect
in part—

in whole.

AN ACT to carry into effect the constitution of this State, as altered and amended by the late convention.

BE it enacted by the Senate and House of Representatives in General-Court convened, That the said constitution, so far as relates to the choice of the members of the legislature and the executive officers of the State, county treasurer and recorder of deeds, shall take effect on the first day of February, in the year of our Lord, one thousand seven hundred and ninety-three; and that the whole of the said constitution shall take effect, and be in full force on the first Wednesday of June in the same year. And that the State be divided into the following districts, numbered from one to twelve, each of which shall have the right of choosing one senator for said State annually, pursuant to the said constitution.

District No. I. To contain Portsmouth, Newcastle, Rye, Greenland, Newington, Stratham, North-Hampton, Hampton, Hamptonfalls, and Seabrook.

District No. II. To contain Exeter, Epping, Brintwood, Newmarket, Kensington, Poplin, Kingstown, East-Kingston, Newtown, and South-Hampton.

District No. III. To contain Atkinson, Londonderry, Chester, Plaistow, Salem, Windham, Sandown, Hawke, Hampstead and Pelham.

District No. IV. To contain Nottingham, Northwood, Deerfield, Epsom, Chichester, Pittsfield, Allenstown, Pembroke, Canterbury, Loudon, Northfield, Raymond and Candia.

District No. V. To contain Dover, Durham, Lee, Madbury, Barrington, Rochester, Somersworth and New-Durham.

District No. VI. To contain Gilmantown, Barnstead, Conway, Eaton, Effingham, Meredith, Middletown, Moultonborough, New-Hampton, Sanbornton, Ossipee, Sandwich, Tamworth, Tuftonborough, Wolfborough, New-Durham-Gore, Wakefield and Burton, and Samuel Stark's, Archibald Stark's and Hugh Sterling's locations.

District No. VII. To contain Amherst, Hollis, Dunstable, Nottingham-West, Lytchfield, Merrimac, Bedford, New-Boston, Duxbury, Raby, Dunbarton, Goffstown, Bow and Derryfield.

District No. VIII. To contain Concord, Andover, Boscowen,

Boscawen, Bradford, Campbells-Gore, Henniker, Hillsborough, Hopkinton, Kearsarge, New-London, Salisbury, Sutton, Warner and Weare.

District No. IX. To contain Antrim, Deering, Francess town, Hancock, Lyndeborough, Mason, New-Ipswich, Peterborough, Sharon, Temple, Wilton, Society Land, Greenfield, Rindge, Jaffrey and Dublin.

District No. X. To contain Keene, Swanzey, Winchester, Hinsdale, Richmond, Chesterfield, Marlborough, Sullivan, Packersfield, Fitzwilliam, Westmorland, Gilsum and Surry.

District No. XI. To contain Charlestown, Plainfield, Grantham, Protectworth, Cornish, Croydon, Wendell, Claremont, Newport, Unity, Langdon, Acworth, Lempster, Goshen, Walpole, Alstead, Fishersfield, Marlow, Stoddard and Washington.

District No. XII. To contain the county of Grafton, excepting Burton.

This act passed December 14, 1792.

AN ACT to establish a seal, to be used as the great seal of this State.

Passed Feb.
12, 1785.

WHEREAS the committee appointed by the general court to prepare a devise and inscription for a State seal, did on the first day of November last, lay before said court a device, with the following inscription, viz. *A field encompassed with laurels, round the field, in capital letters, SIGILLUM REIPUBLICÆ NEO* Preamble.
HANTONIENSIS, on the field a rising sun and a ship on the stocks, with American banners displayed, being two inches diameter, which was then voted to be received and accepted, and accordingly hath since that time been used as the great seal of the State; but as doubts have since arisen, whether the vote for establishing said seal was sufficiently explicit; for removing such doubts,

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That the said seal, with the above recited inscription, be fully established and used in all cases, as the great seal of this State, and considered as having been such from the first day of November last.

Enacting
clause.

This act passed February 12, 1785.

AN

Passed Feb.
9. 1791.

Justices of
the peace to
try causes
not exceed-
ing 40/. ex-
cepting title
of land.

Appeal.

Actions of
trespass bro't
before a jus-
tice regula-
ted.

AN ACT for establishing courts of law, for the administration of justice within this State, and designating their powers, and regulating their proceedings in certain cases.

BE it enacted by the Senate and House of Representatives in General-Court convened, That every justice of the peace within his county, be, and hereby is authorized and empowered to hear, try and determine all pleas and actions (except such wherein the title of real estate may be drawn in question) where the sum demanded in damages doth not exceed forty shillings, notwithstanding the note, account, or other contract might originally have exceeded that sum, and to give judgment therein. And either party aggrieved, at the judgment given by any justice of the peace in any civil cause, may appeal therefrom to the next court of common pleas to be holden in the same county, provided the appeal be claimed within two hours after judgment is rendered and entered.

And be it further enacted, That when an action of trespass shall be brought before any justice of the peace, and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title of real estate in question.

And when in any such action the defendant shall plead a special plea, whereby the title of real estate shall be drawn in question, the justice shall record such plea, and no further proceeding shall be had thereon before the justice, and the plaintiff may carry an attested copy of the writ, declaration, plea, and all other papers filed in the same cause, to the next court of common pleas to be holden in the same county; and is hereby authorized and empowered to enter in said court his said action, and prosecute the same to final judgment, as in cases originally commenced at said court of common pleas; and the justices of said court are hereby empowered to take cognizance of said action, and the defendant shall be holden by his said plea, and the proceeding subsequent thereto, shall be the same as though the action had been commenced and prosecuted so far at said court.

And in case the plaintiff shall not enter said action at said court, upon complaint made by the defendant, the justices of said court shall allow him his full costs, both before the justice and at said court.

Provided that in case the plaintiff shall immediately on the defendant's plea being filed before the justice, as aforesaid, pray leave to become non-suit, that liberty shall be granted him by the said justice, and costs shall be taxed for the defendant.

And be it further enacted, That every justice of the peace, for the preservation of the peace, or upon the view of any breach of the peace, or of any other transgression of law, proper to his cognizance, done or committed by any person or persons whatsoever, shall, and hereby is authorized and empowered in the absence of a sheriff, deputy sheriff or constable, to require any person or persons to apprehend and bring before him, any such offender or offenders, and every person or persons, who upon being thereto required, shall neglect to obey such justice, shall incur and suffer the like pains and penalties as in the case of neglecting or refusing to assist sheriffs in the execution of their offices.

Power of a justice for conservation of the peace, &c.

And be it further enacted, That any person sentenced for any criminal offence, by one or more justices of the peace, out of sessions (unless in cases whereby a particular statute it is otherwise ordered and enacted) may appeal therefrom unto the next court of general sessions of the peace, to be holden in the same county; provided the appeal be claimed at the time of declaring sentence, and the appellant enter into recognizance, with sufficient sureties in a reasonable sum, not exceeding *ten pounds*, for his appearance at the court appealed to, and to prosecute his appeal there with effect, and to perform and abide the order or sentence of the said court thereon, which is to be final; and in the mean time to be of good behavior.

Appeal to the sessions allowed and regulated.

And be it further enacted, That every justice of the peace shall have power to adjourn the trial of any civil action brought before him, to such future time as may be proper, not exceeding three months.

Justices power to adjourn

And be it further enacted, That no justice of the peace shall be of counsel, or act as an attorney to either party; nor shall any justice of the peace undertake to advise, or assist any party in any suit or cause before him.

He may not be of counsel to either party.

And be it further enacted, That when any person is brought before any justice of the peace, to be examined

May take recognizances for appearance before him in certain cases,

Must account for fines received by him.

Courts of gen. sessions.

Appeal.

ined or tried for any criminal offence by him cognizable, and justice may require that the said examination or trial should be postponed to some future day, the said justice may proceed to take security by way of recognizance of the parties and witnesses, for their appearance before him on some future day, in the same manner as the courts of general sessions of the peace, and superior court of judicature respectively by law may, and can do.

And be it further enacted, That every justice of the peace, shall, within six months after the receipt of any fine or forfeiture, set or imposed by such justice, pay the same to the person or persons to whom the same by law accrues, or is payable, on pain of forfeiting the sum of *ten pounds* for every neglect herein, to be recovered by any person who will sue for the same, by action in any court of common pleas; and shall moreover be liable to an action, by the party to whose use the said fine or forfeiture accrued, for the amount of such fine or forfeiture and costs.

And be it further enacted, That there shall be one court of general sessions of the peace within and for each respective county in this State, to be holden by the justices of the peace for such county, or any three of them, to whom one at least shall be of the quorum, the said court to be holden at such times and places as are by law established, which said court shall have cognizance of all matters and things proper to the jurisdiction of said court, relating to the conservation of the peace and punishment of offenders, according to the law and statutes in force within this State.

And every respondent against whom judgment shall be given, by the justices of the court of general sessions of the peace, shall have liberty to appeal therefrom, unto the next superior court of judicature to be holden in the same county, the matter being originally heard and tried in said court of general sessions of the peace (except in cases where by particular laws an appeal is expressly disallowed)—and no appeal shall be granted, unless it be claimed at the time of declaring sentence, and the appellant enter into recognizance with sureties, within the space of two hours next after, in a reasonable sum for his personal appearance at the court appealed to, for the prosecution

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tion of his appeal there with effect, and to perform and abide the order or sentence of said superior court thereon, and to be of good behavior in the mean time ; and the party appealing is to remain in the hands or custody of an officer, until he shall have given such security.

And be it further enacted, That the justices of the peace in the respective counties in this State, at any court of general sessions of the peace, be and hereby are authorised and empowered to make orders for the raising any sum or sums of money that may be necessary, from time to time, for building or repairing court-houses, prisons, houses of correction or other public county buildings, payment of grand jurors, travel of petit jurors, travel and attendance of the justices of the sessions, and all other county charges within each county ; and to examine and allow any accounts, or demands that may be laid before them, for the ends aforesaid, and to remit any fines or forfeitures accruing to the county ; and the county treasurer shall issue his warrant for assessing, levying, and collecting such sums as shall be voted to be raised as aforesaid, which sums shall be apportioned to the several towns and places in such county, agreeably to the proportion established for raising State taxes for the time being, and such taxes shall be levied and collected in the same manner as the State taxes, and as the law shall or may direct.

And be it further enacted, That there shall be a court of common pleas within each county in this State, to be holden at such times and places as are by law appointed, by four justices appointed and commissioned thereto, by the president and council for the time being ; any three of which justices shall be a quorum : And the said court shall have cognizance of all suits wherein the title of real estate is concerned, and of all civil actions of the value of more than forty shillings, arising or happening within their respective counties, triable by common or statute laws, and shall give judgment thereon and issue execution accordingly.

And either party aggrieved at the judgment given in any court of common pleas, in any matter or cause originally tried there, shall have liberty to appeal therefrom

Power of the court of sessions,

and county treasurer.

Court of common pleas.

Appeal.

No appeal
granted in
case of judg-
ment on de-
fault.

Sup. court of
judicature.

Power and
mode of
adjourning
courts in cer-
tain cases.

Power of
making rules

therefrom to the next superior court of judicature, to be holden in the same county:—Provided the said appeal be claimed whilst the said court is sitting.

And be it further enacted, That no appeal shall in any case be granted, where judgment is rendered upon default.

And be it further enacted, That there shall be a superior court of judicature within this State, to be holden at such times and places as are, or may be by law established, by a chief justice and three other justices appointed and commissioned thereto by the president and council for the time being, any three of which justices shall be a quorum; and the said court shall have jurisdiction and authority throughout this State, and shall have all the powers and authorities which the superior court of judicature within this State, have heretofore held and enjoyed, or by law ought to hold and enjoy. And the justices of the said court are hereby empowered to give judgment or sentence, and to award execution thereon.

And be it further enacted, That the superior court of judicature, the court of common pleas, and court of general sessions of the peace, shall have power and authority respectively to adjourn their respective courts from time to time, as they may think proper. And one or more of said justices being present at the place where, and the time when the court to which such justice or justices belong, is by law to be holden, may adjourn the same court from day to day, until a quorum be convened; and when it shall so happen, that by death, sickness or otherwise, a quorum of the respective courts cannot attend at the time and place, by law appointed for holding such court, any two justices of such court may by writ, direct the sheriff to repair to the place where such court is by law to be holden, on the day appointed for holding the same, and adjourn the same court to some day antecedent to the next term, and if at such adjournment, or at any adjournment, a quorum of said court cannot attend, one or more of the justices present shall have power to continue all causes then pending in the same court, to the next stated term.

And be it further enacted, That the justices of the said superior court of judicature, court of common pleas

pleas and court of general sessions of the peace, be and hereby are respectively empowered to make necessary rules for the more orderly practising in their respective courts, provided the said rules be not repugnant to the constitution and laws of this State ; and to appoint clerks in their respective courts, who shall be under oath for the faithful discharge of the duties of said office, and who shall hold their offices during the pleasure of the court.

And be it further enacted, That the justices of the court of common pleas, and the justices of the superior court of judicature, where the forfeiture or penalty of any obligation with a condition underwritten, or a penalty annexed to any articles, agreements, covenants, contracts, charter-party or other specialty, or forfeiture of any estate, granted upon condition, executed by deed of mortgage or bargain and sale, with defeazance, shall be found by verdict of a jury, or by default or confession of the obligor, mortgager or vender, or upon demurrer, are hereby empowered and authorised respectively to chancer such forfeiture, and to make up judgment thereon for the plaintiff, for such sum as is due according to equity and good conscience, and to award execution accordingly. But in actions upon mortgage or deed of bargain and sale with defeazance, the judgment shall be conditional ; that if the mortgager or vender, his heirs, executors or administrators, shall pay unto the mortgagee or vendee, his executors, administrators or assigns, such sum as the court shall adjudge due, within two months from the time of entering judgment, with interest, then the same mortgage or deed of bargain and sale shall be void and discharged, otherwise that the plaintiff shall have his writ of possession.

Provided always, That when any action shall be brought and prosecuted on any bond or other specialty, with penalty for the payment of any sums of money, performance of covenants, contracts, agreements, matters or things to be done at several times, some of which times shall not have expired, and the plaintiff recover the forfeiture of any such penalty, the court shall enter up judgment for the whole of such forfeiture, and award execution only for so much of the debt or damage as is justly due or sustained at

Power of
chancery in
certain cases.

Judgment
on mortga-
ges condi-
tional.

Scire facias
in certain
cases.

that time ; and the plaintiff, his executors or administrators, at any time afterwards may have from the court where such judgment was rendered, a writ of scire facias against the defendant, his heirs, executors or administrators, to shew cause why execution should not be awarded upon said judgment, for other and further damages, by reason of the non-performance or the breach of the contracts, covenants, agreements or things in such bonds or specialties contained, and the time for the performance of which had not elapsed at the time of awarding execution as aforesaid.

Times and
places of
holding the
super. court.

And be it further enacted, That the times and places for holding the superior courts of judicature, courts of common pleas and courts of general sessions of the peace in the respective counties, shall be as follows :

The superior court of judicature shall be holden at Dover, for the county of Strafford, on the second Tuesday of April ; and at a place called New-Durham Gore, in said county, on the second Tuesday of September annually.

And for the county of Rockingham, at Portsmouth on the fourth Tuesday of April ; and at Exeter on the third Tuesday of September annually.

And for the county of Hillsborough, at Amherst on the second Tuesday of May and the first Tuesday of October annually.

And for the county of Cheshire, at Charlestown on the third Tuesday of May ; and at Keene, on the third Tuesday of October annually.

And for the county of Grafton, at Plymouth on the fourth Tuesday of May ; and at Haverhill on the fourth Tuesday of October annually.

Times and
places of
holding the
courts of
common
pleas.

And the court of common pleas for the county of Rockingham, shall be holden at Portsmouth on the first Tuesday of February, and the fourth Tuesday of May ; and at Exeter on the second Tuesday of August and the first Tuesday of November annually.

For the county of Strafford, at Dover on the third Tuesdays of February and June ; and at said place called New-Durham Gore, on the third Tuesdays of August and November annually.

For the county of Hillsborough, at Amherst on the second Tuesday of March, June and December, and the first Tuesday of September annually.

For

For the county of Cheshire, at Keene on the third Tuesdays of March and June; and at Charlestown on the fourth Tuesday of September and the third Tuesday of December annually.

For the county of Grafton, at Plymouth on the first Tuesdays of September and December; and at Haverhill on the first Tuesdays of March and June annually.

The court of general sessions of the peace, shall be holden for the county of Rockingham, at Portsmouth on the second Tuesday of February; and at Exeter on the fourth Tuesday of August annually.

Times and places of holding the courts of sessions.

For the county of Strafford, at Dover on the Thursday next following the third Tuesday of February; and at said place called New-Durham Gore, on the Thursday next following the third Tuesday of August annually.

For the county of Hillsborough, at Amherst on the Thursday next following the second Tuesday of March, and the first Tuesday of September annually.

For the county of Cheshire, at Keene on the Thursday next following the third Tuesday of March; and at Charlestown the first Thursday next following the fourth Tuesday of September annually.

For the county of Grafton, at Plymouth on the Thursday next following the first Tuesday of September; and at Haverhill on the Thursday next following the first Tuesday of March annually.

This Act passed February 9, 1791.

An ACT for altering the places for holding the courts in the county of Strafford.

Passed June 21, 1792.

BE it enacted by the Senate and House of Representatives in General Court convened, That the times and places of holding the judicial courts for the county of Strafford be altered and established as follows, namely.—The superior court of judicature shall be holden at Dover, for the county of Strafford, on the second Tuesdays of April and September annually; and the court of common pleas shall be holden at the said Dover, on the third Tuesday of February annually; and at Moultonborough, on the third Tuesday of June annually; and at Gilmantown in or as near as convenient

Times and places of holding superior court.

Courts of com. pleas

Courts of
general ses-
sions.

convenient to the Rev. Mr. Smith's meeting house, on the third Tuesdays of August and November annually. And the courts of general sessions of the peace, for the county of Strafford, shall be holden at Dover, on the Thursday next following the third Tuesday of February, and at Gilmantown on the Thursday next following the third Tuesday of August annually.

Writs, &c.
to be re-
turned to the
respective
courts.

And be it further enacted, That all writs, warrants, venires, recognizances, appeals, actions, indictments and processes of every kind, returnable to, or sustainable by the inferior court of common pleas, next to be holden at Durham, in said county, and the court of general sessions of the peace, next to be holden at said Durham, shall be returned to, and sustained by the respective courts to which they are, or shall be returnable, next to be holden at Gilmantown,

Suspending
clause.

And be it further enacted, That so much of an act entitled, "An act altering the places of holding the courts in the county of Strafford," made and passed the 10th day of February 1791, as relates to holding courts in the county of Strafford, and also the operation of so much of the act entitled, "An act for establishing courts of law for the administration of justice within this state, and designating their powers, and regulating their proceedings in certain cases," made and passed the 10th day of February 1791, as relates to holding the courts at a place called New-Durham-Gore, be suspended for the term of two years from the time this act takes effect, and is in force.

Time of con-
tinuance.

Provided always, This act shall not take effect, and be in force until the last day of June current, and shall not continue and be in force for a longer time than two years from that time.

This act passed June 21, 1792.

Passed June
19, 1793.

AN ACT for altering the time of the Superior Court of Judicature setting in the county of Strafford.

Preamble.

WHEREAS from the increase of business it has become necessary that a longer time should be allowed for said Court to set in the county aforesaid :

Therefore,

Enacting
clause.

BE it enacted by the Senate and House of Representatives in General Court convened, That the superior court

court of judicature in future shall be holden annually at Dover, in the county of Strafford, on the first Tuesday of September, instead of the second Tuesday of said month—and that all writs, executions, indictments, venires, complaints, and informations; and all other pleas and processes now returnable to, and triable by said court; be returned to, sustained, and determined by the superior court aforesaid, to be holden at Dover, in said county of Strafford, on the first Tuesday of September next; any law usage or custom to the contrary notwithstanding.

This act passed June 19, 1793.

An ACT to establish the times and places of holding the Courts of law in and for the county of Strafford.

Approved
June 17,
1794.

BE it enacted by the Senate and House of Representatives in General Court convened, That the superior court of judicature shall be holden at Dover, for the county of Strafford on the second Tuesdays of April and September annually. And the court of common pleas for said county shall be holden at said Dover, on the third Tuesday of February annually; and at Rochester, in, or as near as convenient to the meeting house in said Rochester, at a place called Norway plains, on the fourth Tuesday of June annually: and at Gilmantown, in, or as near as convenient to the Rev. Mr. Smith's meeting-house, on the third Tuesdays of August and November annually. And the court of general sessions of the peace for said county of Strafford, shall be holden at said Gilmantown, on the Thursday next following the third Tuesday of August next, any law usage or custom to the contrary notwithstanding.

Time & place
of holding S.
Court.

Court of
common-
pleas and

Court of
gen. sessions
of the peace.

And be it further enacted, That all writs, warrants, venires, recognizances, appeals, actions, indictments and processes of every kind, returnable to, or sustainable by the superior court of judicature, next to be holden at a place called New-Durham Gore, in said county, the court of common pleas and court of general sessions of the peace to be holden at said New-Durham Gore, shall be returned to, and sustained by the respective courts to which they are, or shall be returnable, next to be holden at Dover and Gilmantown aforesaid.

All writs &c:
to be return-
ed to & sus-
tained by the
respective
courts.

Approved June 17, 1794.

AN

Passed Dec.
25, 1792.

AN ACT to alter the place of holding part of the courts in the county of Hillsborough.

BE it enacted by the Senate and House of Representatives in General Court convened, That the superior court of judicature, which by law is to be holden at Amherst, in the county of Hillsborough, in said State, on the second Tuesday of May, shall forever hereafter be holden at Hopkinton in said county, on the second Tuesday of May annually. And the courts of common pleas, which by law are to be holden at said Amherst, on the first Tuesday of September, and on the second Tuesday of December, shall forever hereafter be holden at said Hopkinton, on said days annually. And the courts of general sessions of the peace, which by law are to be holden at said Amherst, on the Thursday next following the first Tuesday of September, shall forever hereafter be holden at said Hopkinton, on the Thursdays next following the first Tuesday of September annually.

At Hopkinton.

Repealing clause.

And be it further enacted, That the act entitled, "An act for establishing courts of law for the administration of justice within this State, and designating their powers, and regulating their proceedings in certain cases," so far as the said act relates to holding such of the aforesaid courts at Amherst, which by this act are directed in future to be holden at said Hopkinton, be, and hereby is repealed.

Writs, &c. to be sustained by said courts at Hopkinton.

And be it further enacted, That all writs, venires, recognizances, appeals, actions, indictments, warrants and process of every kind, which by law were returnable to said courts at Amherst, which by this act are to be holden at said Hopkinton, shall be returned to, and sustained by said courts at said Hopkinton.

Courts where to be holden.

And be it further enacted, That the several courts aforesaid, which are to be holden at said Hopkinton, shall be holden in, or as near the meeting house in said town as conveniently may be.

And be it further enacted, That this act, at the expiration of two years from the passing thereof, shall be null and void, unless a suitable house for holding said courts, be erected at said Hopkinton within that time, without being a county charge.

This act passed December 25, 1792.

AN ACT altering the time of holding the Superior Court of Judicature in the county of Grafton.

Approved
June 20,
1794.

BE it enacted by the Senate and House of Representatives in General Court convened, That the superior court of judicature, by law holden at Haverhill in the county of Grafton, on the fourth Tuesday of October annually, shall in future, be holden the Tuesday next following the fourth Tuesday in October annually, of which all persons are to take notice and govern themselves accordingly. And all writs, processes, and other matters of law returnable to, and determinable by said court, on the fourth Tuesday of October next, may be returned to, and sustained, tried, and determined by said court on the Tuesday next following the said fourth Tuesday, any law, usage or custom to the contrary notwithstanding.

Time of holding S. C.

Approved June 20, 1794.

AN ACT to enlarge the civil jurisdiction of justices of the peace within this State, and directing constables, in certain cases to serve writs and other legal precepts.

Approved
February
21, 1794.

BE it enacted by the Senate and House of Representatives in General Court convened, That instead of the powers of justices of the peace being limited to forty shillings, as by the present laws, the said justices shall hereafter have jurisdiction of all causes, of the same nature, not exceeding four pounds. And all appeals from judgments of justices of the peace, when more than forty shillings debt or damages shall be recovered or demanded, shall be to the superior court of judicature in the same way and manner as appeals are now by law allowed, and had from judgments of justices of the peace to courts of common pleas; excepting that the appellant shall, at the time of claiming his appeal, enter into recognizance with sufficient sureties, to enter his appeal at the court appealed to, and prosecute the same with effect.

Four pounds

Recognize.

And be it further enacted, That all writs issuing from offices of the peace, shall, wherein the sum demanded exceed forty shillings, be served fourteen days before the time of trial, and before they are served, be endorsed

Writs to be
endorsed.

Scirefacias.

Constables
to serve writs

Bail.

endorsed by the plaintiff or his attorney, and the endorser shall, in case the defendant recover cost, be holden and liable for said cost in the same way and manner as endorser of writs returnable to the courts of common pleas by law now are. And any justices of the peace may, upon application, issue scirefacias in due form of law against such endorser for said cost.

And be it further enacted, That any constable to whom any writ or other legal precept issuing from a justice of the peace may be directed, be and hereby is fully empowered and directed to serve and return the same according to law.

And be it further enacted, That the same mode, with respect to bail on mesne process, and taking bond upon execution for the liberty of the prison yard, shall be observed upon writs and executions issuing from justices of the peace, as the laws now in force point out with respect to bail on mesne process returnable to, and taking bond upon execution issuing from the courts of common pleas; any law, usage or custom to the contrary notwithstanding.—This act to continue and be in force three years from the passing hereof, and to the end of the next session of the general court and no longer.

Approved February 21, 1794.

Approved
February
21, 1794.

AN ACT to abolish the courts of general sessions of the peace, and to vest in the courts of common pleas, all the judicial powers, authorities and jurisdiction, and all other powers, except granting taxes, heretofore by law vested in said courts of general sessions of the peace.

C. C. P. invested with
powers of
gen. sessions
of the peace.

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the first day of October next, the several courts of common pleas by law established within this State in their respective counties, be and they hereby are vested with all the powers and authorities, touching all matters and things arising or happening within their said counties, which by law are now vested in and triable by the several courts of general sessions of the peace.

And

And it shall be the duty of the said courts of common pleas, within their respective counties, to hear, try and determine all indictments, complaints, petitions, causes, matters and things of any name or nature whatsoever, except granting taxes, in as full and ample manner, to all intents and purposes, and upon the same principles of law, as they are now triable before the said courts of general sessions of the peace; give judgment, grant appeals, award execution, inflict punishments and impose fines, which fines shall be paid over as the laws now in force direct for fines imposed by the court of sessions. And all appeals, which by law are now allowed from the justices of the peace to the said courts of general sessions of the peace, and all recognizances for appearances, entering complaints, and for appearances to give testimony at the said courts of general sessions of the peace, shall from and after the said first day of October next, be to the said courts of common pleas.

And be it further enacted, That the several and respective clerks of the said courts of common pleas, be and they hereby are empowered and directed annually to issue venires for grand jurors in their several counties, to attend said courts, and for the same purposes as they have heretofore attended the courts of general sessions of the peace; which jurors shall be allowed the same fees, and paid in the same manner, as heretofore:—And all records, files, papers and documents of said courts of general sessions of the peace, shall be by said courts delivered over to the said courts of common pleas immediately after this act shall take effect—and no petit jury other than those usually attending the said courts of common pleas, shall be summoned to attend said courts. And the same fees heretofore receivable at the said courts of general sessions of the peace, shall from and after the time this act takes effect, be paid at the said courts of common pleas; and all that part of the fees, which by the present law is payable into the respective county treasuries by the said courts of general sessions of the peace, shall be paid to the said courts of common pleas, to be appropriated in the same manner, as fees in civil causes are by law appropriated. And all processes and other matters and things which may be returnable to, or

To determine all indictments, &c.

Clerks to issue venires for grand jurors.

Jurors fees.

All records, &c. to be delivered to C. P.

Petit Jury.

Fees.

All processes, &c.

pending

I

And

pending in said courts of general sessions of the peace, at the time this act shall take effect, shall be by the said courts respectively delivered over to, and tried by the said courts of common pleas, in the same way and manner as they might or ought to have been tried by said courts of general sessions of the peace, had this act not been made.

County treasurers.

Clerks to attend general court.

Convention.

Judges to give order.

And be it further enacted, That the several county treasurers shall in the month of September annually, make out and certify to the judges of the said courts of common pleas, at their next stated sessions, a particular statement of such treasury, and the said judges shall determine what monies are in their opinion necessary to be raised in said county for the year ensuing, stating in general the purposes for which such monies are or probably will be needed. And the clerks of the several courts of common pleas shall attend at the next session of the general court, and lay the same with a particular account of the expenditures and appropriations of the preceding year, before the representatives of the county then assembled, who are hereby authorised and empowered at such session of the general court to form themselves into a convention for the sole purpose of granting and appropriating taxes for their county, and they may at such convention choose a chairman, and swear the clerk of the court attending, or in case of his necessary absence, appoint and swear some other person as a clerk, who shall keep a true record of all matters and things done in such convention, and the taxes which shall be voted by such convention or a major part thereof attending, shall be held good and valid in law, and may be assessed and collected by the county treasurers in the same manner as taxes which have been heretofore granted by the courts of general sessions of the peace have been collected; and the said judges shall from time to time make orders on the several treasurers, in their respective counties for paying out such monies agreeable to appropriations made by such conventions, where appropriations are by them made, and for other necessary county charges where an overplus is granted for contingencies, and the several treasurers are hereby authorised to pay out monies accordingly.

And be it further enacted, That from and after the first

first day of October next, all the laws now in force, Repealing
which relate to holding courts of general sessions of clause.
the peace in the several counties in this State, be and
they hereby are repealed so far as they are inconsis-
tent with this act.

Approved February 21, 1794.

AN ACT in addition to an act entitled, "An act to a- Approved
bolish the courts of general sessions of the peace, and June 17,
to vest in the courts of common pleas, all the ju- 1794.
dicial powers, authorities, and jurisdiction, and all
other powers, except granting taxes heretofore, by
law, vested in said courts of general sessions of the
peace."

BE it enacted by the Senate and House of Representa-
tives in General Court convened, That upon the Clerks of
said act being in force, the clerks of the courts of ses- courts of
sions for the several counties shall be, and hereby are sessions to
directed to deliver over to the clerks of the several deliver all re-
courts of common pleas, all the records, files and pa- cords &c. to
pers of the courts of sessions, and that the clerks of clerks of
the courts of common pleas shall have the same pow- com. pleas.
ers, with respect to the said records, files and papers,
in certifying copies, and for all other purposes, after
the act to which this is an addition, shall take effect,
as the clerks of the courts of sessions have had, or may
now have.

And be it further enacted, That the several clerks Clerks al-
when attending upon the convention named in said lowance and
act, for the purpose of granting and appropriating tax-
es, shall be allowed and paid out of the county treasu-
ry the same travel and attendance as are paid to mem-
bers of the general court for their travel and attend-
ance; and that it shall be the duty of the said clerks, Duty.
to certify to the several county treasurers, all such
taxes as may be granted by the said convention.

Approved June 17, 1794.

Passed Feb.
6, 1789.

AN ACT empowering the superior court of judicature of this State, to hear and try any causes respecting or relating to the forfeitures of lands within this State, heretofore granted, or that may hereafter be granted, for non-performance of the conditions of such grants, to determine and give judgment therein, that such forfeiture is or is not incurred, and to judge and decree as a court of chancery, in certain of the causes aforesaid.

Preamble.

WHEREAS divers grants or charters of lands in New-Hampshire have been made by the supreme executive power, to persons associating to settle and improve such lands, or to individuals applying for such grants, all of which grants were made on certain conditions of settling such lands, or making certain improvements thereon, within a limited time ; and whereas some of the lands so granted may have been, or may yet be forfeited, according to the spirit and meaning of the conditions contained in, or annexed to such grants or charters, by a non-performance of said conditions ; and whereas the same may hereafter take place respecting similar grants that may be made by this State on conditions ; and whereas the liberty and safety of the subject require, that lands so granted should not be entered upon and possessed, or re-granted upon mere suggestions, without the intervention of proofs and trial by jury according to the constitution and laws to ascertain the performance or non-performance of such conditions :

Therefore,

Superior
court to de-
termine all
causes rela-
tive to char-
ters or grants
of land.

BE it enacted by the Senate and House of Representatives in General Court convened, That the justices of the superior court of judicature of this State shall have full power, jurisdiction and authority throughout this State, to hear, try and determine all causes and matters that may come before them touching the force and validity of any such grants, or the performance or non-performance of conditions annexed to, or contained in any charters or grants made or that may be made as aforesaid, or touching or concerning any of the matters aforesaid.

And the ordinary mode of proceeding upon the matters aforesaid, in the said court, shall be as follows : Upon complaint made in writing to the chief

or

t of judica-
y causes re-
lands with-
that may
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e and give
is or is not
a court of
esaid.

of lands in
supreme ex-
o settle and
applying for
de on certain
king certain
time ; and
y have been,
e spirit and
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ance of said
y hereafter
may be made
the liberty
ds so granted
r re-granted
ervention of
e constitution
or non-per-

f Represen-
that the ju-
f this State
d authority
etermine a
them touch
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tions annex
grants made
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ng upon the
all be as for
to the chief
or

or one other justice of said superior court, by the at-
torney general, or any other person empowered by
the general court, in behalf of the State, that any
person or persons claiming lands by virtue of any
charter or grant as aforesaid, have forfeited the same
by a non-performance of the conditions of the grant
or charter thereof, or upon a like complaint of any
person or persons claiming such lands by another and
like grant of the same, and suggestion of such forfei-
ture as aforesaid, made in writing as aforesaid, a sum-
mons shall issue from said court, tested by the chief,
or one other justice and signed by the clerk, founded
on said complaint, requiring the person or persons a-
gainst whom it is made, to appear and answer thereto
before said court, at the next term or session of the
same, in the county where such land lies, which sum-
mons shall be served and returned as the law requires
in civil causes. And in case the complaint shall be a-
gainst a number of grantees claiming by the same
grant, each one may appear for himself, and shall have
liberty to make his several plea ; and upon such per-
son or persons summoned as aforesaid, appearing at
said court in person, or by attorney, and making his,
her or their plea, or answer to said complaint, deny-
ing the matters therein alledged, or pleading per-
formance of the conditions of the grant, and putting
the issue to the country, the court shall proceed to
hear and try the cause, and commit it to jury empan-
neled and sworn to try the issue ; who shall make
and return to the said court, their verdict thereon,
generally or specially, as the fact to them, on the evi-
dence, shall appear. And if the person or persons
summoned as aforesaid, shall not appear, the court
shall, notwithstanding, hear the evidence and proofs
adduced, and try the truth of the matters alledged
and set forth in the complaint, by a jury as aforesaid :
Provided always, that when any person or persons,
other than those employed by and in behalf of the
State, who shall enter complaint, or prosecute any
suit in said court, and shall not support his title, and
obtain judgment in his favor, costs shall be taxed for
the defendant or defendants, as in other courts. And
provided also, that said complainant (not being em-
ployed by and in behalf of the State) shall, previous

Mode of
process.

Grantees
may plead
severally.

And the trial
to be by
jury.

where the
defen't doth
not appear.

Complain-
ant not em-
ploy'd by the
State to pay
costs in case.

Where the jury find forfeiture the court shall judge in equity.

Judgment to be transmitted to the secretary.

The State shall be considered as in possession of lands adjudged forfeited.

to a summons being issued, give bond in a reasonable sum, with sureties to pay all such costs.

And be it further enacted, That when, and so often as the verdict of the jury, in any such case, shall be, that the conditions of the grant have not been performed, and that the lands are forfeited, the person or persons against whom such verdict shall be found, shall have liberty thereupon to shew to said court their reasons, if any they have, which shall be in writing, why said lands, in equity and good conscience, should not be forfeited, although by the rigor of the law, a forfeiture be incurred; and said court shall judge of the same according to equity and good conscience. And if on mature deliberation, the court shall judge the reasons so given, to be sufficient, they shall briefly recite them in the judgment rendered, which shall be, in such case, that such lands in equity ought not to be, and are not forfeited; but if no reasons be given, or those offered be judged insufficient, the judgment shall be, that said lands are forfeited for the use of this State, and if any reasons were given and determined to be insufficient, the same shall also be briefly recited in the judgment. And the said court shall, within thirty days after said judgment rendered, transmit the original verdict of the jury, signed by the foreman, after the same shall have been recorded, together with a copy of their judgment, both attested by the clerk, and under the seal of the court, to the secretary of the State, to be laid before the general court at their next session.

And be it further enacted, That in all cases where the lands found and declared to be forfeited by verdict and judgment made, rendered and transmitted as aforesaid, shall not have been re-granted by the same authority, such lands shall thereupon be considered as being immediately upon and after the proceedings aforesaid, in the possession of this State, without any actual or formal entry thereon, unless some person or persons shall be in the actual possession thereof, and so much time hath elapsed during such possession as would take away the entry of a private person.

But in all cases where the lands so found and declared forfeited as aforesaid, shall be, or have been re-granted as aforesaid, such second or other grantee or grantees,

grantees, shall have liberty to appear in said court, at, and upon the rendering the judgment of forfeiture as aforesaid, and by his, her or their petition or motion, in writing, may set forth said re-grant, and his, her or their performance of the conditions of the same, and pray the court to be heard thereupon, and on the matters respecting the improvements by him, her or them made, on said lands, and the court shall thereupon proceed to hear the same, and try and inquire by a jury, or by hearing the proofs themselves, at the option of such party, whether said conditions have been performed by such second or other grantee or grantees, and of the improvements by him, her or them made thereon, and of the value of the same improvements; and upon such performance being found, and the value of such improvements being ascertained as aforesaid, the said court shall, as a court of equity or chancery, maturely consider, determine and decree, what to right and equity belongs, between the State and such second or other grantee or grantees, either that the State shall, before having possession of such lands, pay to such grantee or grantees, the value of said improvements, or so much of the same as shall be thought reasonable, considering the circumstances attending the taking out such second or other grant, as well as all other circumstances, or that such grantee or grantees shall pay the State the value of said lands, considered as in an uncultivated state, or as the same were before said improvements were made, and upon such payment shall hold and have all the title of the State to said lands, or the decree may be conditional, that such grantee or grantees, pay said value of said lands, and keep and hold the same as aforesaid, or else receive the value of the improvements as aforesaid, and deliver possession of said lands to the State, at the option of such grantee or grantees.

And whenever it shall be necessary to ascertain the value of such land, considered as uncultivated, or as it was before such improvements made, the same shall be inquired of, and determined as is herein before directed, respecting the value of such improvements as aforesaid.

And be it further enacted, That the said court shall transmit

Re-grantees may enter their claim,

and the court shall determine the same in equity,

or render a conditional judgment.

Value of land to be ascertained.

Judgment to be transmitted to the secretary.

transmit such their equitable determination and decree in all such cases, together with the verdict and judgment of forfeiture as aforesaid, to the secretary as aforesaid; any thing herein before to the contrary notwithstanding.

Judgment to be in equity, or conditional in all cases.

And it is also enacted, That the same proceedings shall be had, equitable or conditional judgment given, and allowance made for improvements in all cases where the first grantees are parties, or where the re-grantees put in their claim as aforesaid.

And be it further enacted by the authority aforesaid, That if such grantees or re-grantees shall not comply with, and fulfil the equitable determination and decree of said court, by delivering possession of such lands to the attorney-general, or agent for the State specially appointed, within thirty days after being paid the said determined value of his, her or their improvements, and being thereto requested, in case the decree shall order such compensation, or shall not pay to the said attorney general, or agent, within ninety days after such decree made, and request the determined and decreed value of said land in its uncultivated state, or as it was before said improvements made, or secure the payment thereof, in cases where such payment shall be decreed to be made by such grantee or grantees, then, and in every such case upon such neglect the attorney general or any agent or attorney specially appointed, may and shall bring a writ of scirefacias in the same court, which shall be considered, and shall be a court of chancery for that purpose, to repeal such second or other grant or charter, made without any forfeiture being found by inquest; and if the same shall be repealed, the land so re-granted shall be considered as immediately in possession of the State, unless in cases where the entry of a private person would have been unlawful, and in such cases an action shall be brought by the State for the recovery of the possession of said land, and the State, whensoever it shall have possession of any lands which had been before granted, may grant the same.

The attorney general or agent to bring scirefacias to repeal the re-grant when the judgment is not complied with.

And be it further enacted, That in all cases where forfeiture shall have been found and declared by verdict and judgment made, rendered and transmitted as aforesaid,

aforesaid, of lands which have not been granted a second time, if the person or persons who claimed the same by virtue of a grant as aforesaid, shall enter upon, or hold possession thereof after the proceedings aforesaid, an action shall be brought by the State for the recovery of the possession, unless such lands shall have been granted by mistake, after proceedings aforesaid being had, and while the same was in possession of the State.

Lands declared forfeited and withheld to be recovered by action.

And be it further enacted, That the jurors attending said court and trying the matters and causes aforesaid, shall be paid out of the treasury of the State the same sum for travel as jurors have by law in other civil causes, and the foreman the sum of five shillings, and each other juror the sum of four shillings per day for and during their attendance at said court.

Jurors to be paid out of the treasury.

And be it further enacted, That the said justices of the said superior court shall have power to issue venirees for juries to attend said courts, to try all causes and matters herein before directed to be tried by a jury, in the manner directed by law in civil cases. And the said court shall have power and authority, and power and authority is hereby given to the justices of said court to appoint from time to time as occasion shall require, terms in each county in this State, for hearing and trying the matters and causes aforesaid, at which any person or persons complained of as aforesaid may be summoned to appear and answer as aforesaid, or the justices of said court may adjourn from the terms now stated by law, or from such terms so by them appointed for the purposes aforesaid; of which all persons concerned are to take notice and govern themselves accordingly.

The court to issue venirees and to appoint times of sitting.

This act passed February 6, 1789.

AN ACT in addition to an act entitled, "An act empowering the superior court of judicature of this State, to hear and try any causes respecting or relating to the forfeitures of lands within this State heretofore granted, or that may hereafter be granted for non-performance of the conditions of such grants, to determine and give judgment therein, that such

Approved
June 19,
1794.

K

forfeiture

forfeiture is, or is not incurred, and to judge and decree as a court of chancery in certain of the causes aforesaid.

Preamble.

WHEREAS by reason that grantees of lands in this State, or those who claim title under them are frequently unknown, and process against them cannot be served in the usual manner.

Therefore,

Complaint
being made,
notice to be
given.

BE it enacted by the Senate and House of Representatives in General Court convened, That whenever complaint shall be made to the chief justice, or any other justice of said court, agreeably to the directions in said act, it shall be the duty of such justice to make, or require the clerk to make an order in writing, directing the substance of said complaint, with a copy of such order, to be published in some newspaper printed in the county where the land in question lies, if a newspaper is printed in such county, otherwise in a newspaper printed in some county adjacent or near the county where such land lies, and also in the New-Hampshire Gazette three weeks successively, and also to be posted up in some public house in the shire town of the county where the same land lies, for the space of six weeks, to be notified in each way, six weeks prior to the sitting of the court at which said complaint is to be entered and heard; which order being complied with, shall be a good and sufficient service of such process. And the said court is hereby authorised and required, upon proof before them of a service being made as aforesaid, to proceed, and determine upon the objects of said act, agreeable to the directions therein contained, any law, usage or custom to the contrary notwithstanding.

S. C. to de-
termine dis-
putes, &c.

And be it further enacted, That where any dispute shall arise concerning any bridges, canals, or locks in this State, which have been, or shall hereafter be granted by this State on certain conditions, the said superior court shall be a court of equity, to determine such dispute between the State and the grantees, their heirs or assigns, in the same manner as they are empowered to determine disputes concerning grants of lands, and the said court are hereby authorised and empowered to hear and determine the same accordingly. Provided, that in all such disputes the service of the original

nal process shall be made on some principal proprietor or proprietors, or their clerk, by giving him, her or them an attested copy of the complaint, and order to be made as aforesaid, or leaving the same at his, her, or their usual place of abode, at least six weeks prior to the sitting of the court where such complaint is to be entered and heard.

Approved June 19, 1794.

AN ACT making further provision for the administration of justice.

Approved
Feb 12, 1794

WHEREAS petitions are often preferred to the General Court, praying for restoration to a course of law, which mode of relief is not only burthensome to the legislature and to the State, but also extremely expensive to individuals, who often live at a great distance from the place of holding said court ;

Preamble:

For remedy whereof,

BE it enacted by the Senate and House of Representatives in General Court convened, That the justices of the superior court of judicature, be and they hereby are vested with the power of hearing and deciding, and granting one review or new trial after judgment, that hereafter may be rendered in the said superior court, or in the court of common pleas, or general sessions of the peace in the following cases, to wit, upon verdict of jury, default, nonsuit, discontinuance, report of referees or demurrer, and upon the discovery of new evidence, and where an action by accident or misfortune hereafter may fail to be prosecuted to final judgment, to the delay of justice, if it shall appear to them that the justice the law intended hath not been attained, and that a further hearing of the cause would, all circumstances considered, be just and equitable, and like remedy shall be granted to any person materially interested who hath not been a party to the suit on which such judgment may be rendered ; and process on said review or new trial shall be by writ of review as in other cases ; provided application, by petition in writing setting forth the reasons for said review or new trial, be made to said superior court, which application due notice shall be given to the adverse

Justices of S.
C. may
grant a re-
view.

adverse party, if living within this State, otherwise to his agent or attorney who appeared for him in the cause, and all proceedings by virtue of this act, shall be under such rules and regulations, not inconsistent with the fundamental rules and principles of law, as to the said justices may seem reasonable and best calculated for the attaining complete justice.

All new trials to be in the same county, &c.

Limitation.

And be it further enacted, That all applications, new trials and other proceedings to be had by virtue of this act, shall be in the respective county where the original cause was tried, and costs shall be allowed and taxed in favor of the prevailing party on the petition as well as on the trial of the cause so reviewed agreeably to the table of fees.—This Act to be in force for the term of five years from the passing hereof and no longer.

Approved Feb. 12, 1794.

Passed Dec. 13, 1792.

Salaries established.

Fees to be accounted for.

AN ACT establishing permanent salaries for the justices of the superior court of judicature.

BE it enacted by the Senate and House of Representatives in General Court convened, That the justices of the said superior court, shall have and receive the following salaries annually, viz. The chief justice of said court, the sum of one hundred and eighty pounds; and each other justice, the sum of one hundred and forty pounds, which respective sums shall be paid out of the treasury of this State, in four equal quarterly payments, every year, during their continuance in said office or trust.

And be it further enacted, That the fees which said justices may receive in the course of their office, shall be severally accounted for, and deducted from the salaries.

This Act passed December 13, 1792.

Passed June 26, 1786.

Preamble.

AN ACT for the appointment of special justices. *WHEREAS* it sometimes happens, that some of standing justices of the superior or inferior court, this State, are indisposed, interested, or otherwise competent to try causes, which may come, or be fore them; in which cases special justices are necessary to expedite the due administration of justice:

Therefore

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That in either of the cases above-mentioned, upon the application and request of either party interested in the suit, or the suggestion of the justices of the court before whom such suit is pending, or may come, his Excellency the President, with advice of Council, be, and hereby is authorised and empowered to appoint a special justice or justices, as occasion may require, who shall be duly commissioned and sworn, and shall take cognizance of, and try all causes which either of the standing justices are incompetent to try. And the said commission shall be in force until the cause or causes, before said special justice or justices are determined, and no longer; any law, custom, or usage to the contrary notwithstanding.

President
empowered
to appoint
special jus-
tices.

This Act passed June 26, 1786.

AN ACT prescribing the forms of writs in civil causes. Passed Feb. 11, 1791.
BE it enacted by the Senate and House of Representatives in General Court convened, That in the cases following, these forms shall be used :

ATTACHMENT.

R ss. } The STATE of NEW-HAMPSHIRE.

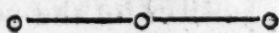
To the sheriff of any county in this State, or his deputy,
Greeting.

WE command you to attach the goods or estate of A. B. of, (addition) to the value of pounds; and for want thereof to take the body of the said A. B. (if he may be found in your precinct) and him safely keep, so that you have him before our justices of our court of to be holden at within and for our said county of on the Tuesday of then and there in our said court to answer unto C. D. of H. &c. (addition) in a plea of

to the damage of the said C. D. as he saith, the sum of

of pounds, which shall then and there be made
to appear, with other due damages, and have you
there this writ, with your doings therein. Witness
R. W. Esq. at P. the day of Anno Domini

R. G. Clerk.



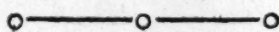
S U M M O N S.

R fs. } The STATE of NEW-HAMPSHIRE.

*To the Sheriff of any county in this State,
or his deputy, Greeting.*

WE command you, that you summon A. B. of C.
&c. (addition) if he may be found within your pre-
cinct, to appear before our justices of our court
of to be holden at P. within and for our said
county of on the Tuesday of then and
there in our said court to answer to H. G. of S.
(addition) in a plea of to the
damage of the said H. G. as he saith, the sum of
pounds, which shall then and there be made to appear,
with other due damages ; and have you there this
writ, with your doings therein. Witness R. W. Esq.
at P. the day of Anno Domini

R. G. Clerk.



SUMMONS when GOODS are ATTACHED.

R fs. } The STATE of NEW-HAMPSHIRE.

To A. B. of P. &c. (addition)

Greeting.

WE command you, that you appear at our
court of to be holden at P. in our said county
of on the Tuesday of then and there
to answer to P. Q. of R. (addition) in a plea of
which plea the said P. Q. hath commenced against
you, to be heard and tried at the said court, and your
goods or estate are attached to the value of
pounds, for security to satisfy the judgment, which
the said P. Q. may recover upon the aforesaid trial.
Fail not of appearance at your peril. Witness R. W.
Esq. at P. the day of Anno Domini

R. G. Clerk.

EXECUTION.

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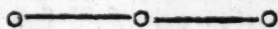
EXECUTION.

Is. } The STATE of NEW-HAMPSHIRE.
 To the Sheriff of any county in this State,
 or his deputy,

Greeting.

WHEREAS R. Y. of K. (addition) by the
 consideration of our justices of our court of
 holden at P. for and within our county of
 foresaid, on the Tuesday of recovered
 judgment against D. H. of B. (addition) for the sum
 of debt or damages, and
 cost of suit, as to us appears of record, whereof exe-
 cution remains to be done: We command you there-
 fore, that of the goods chattels or lands of the said D.
 (within your precinct) you cause to be paid and
 satisfied unto the said R. Y. at the value thereof in
 money, the aforesaid sums being
 the whole, with more for this writ; and
 thereof to satisfy yourself for your own fees: And
 if want of goods, chattels or lands of the said D. H.
 be by him shewn unto you, or found within your
 precinct, to the acceptance of the said R. Y. to satisfy
 the sums aforesaid, we command you to take the body
 of the said D. H. and him commit unto either of our
 gaols within your precinct, and detain in your custo-
 dy within our said gaol, until he pay the full sums
 above mentioned, with your fees, or that he be dis-
 charged by the said R. Y. the creditor, or otherwise
 by order of law. Hereof fail not, and make return
 of this writ, with your doings therein, unto our said
 court of to be holden at P. in our county of
 aforesaid, upon the Tuesday of
 next. Witness R. W. Esq. at P. the day of
 Anno Domini

R. G. Clerk.



And be it further enacted, That the writ for putting
 such into possession of any lands or tenements as shall
 recover judgment for the same, and for levying the
 cost and damages recovered upon such suit, commonly
 called a writ of *facias habere possessionem*, and writs
 of

of *feri facias*, as also the writ of *scire facias* to be issued out of the superior court, or court of common pleas respectively ; and the writ of replevin, shall be from time to time granted and issued in the forms following (viz)

—○—○—○—

WRIT of FACIAS HABERE POSSESSIONEM
and **FERI FACIAS.**

fs. } The STATE of NEW-HAMPSHIRE

To the sheriff of any county in this State,
or his deputy,

Greeting.

WHEREAS A. B. of C. (addition) before our justices of our court of holden at P. within and for our county of afore said upon the Tuesday of by the consideration of the justices of our said court, recovered judgment for, and title and possession of and in a certain with the appurtenances, &c. lying and being in the town of C. against D. H. G. (addition) who had unjustly withheld, put out or removed the said A. B. from his possession thereof and also at the said court recovered judgment for for costs and damages which he sustained by reason of the same, as to us hath been made to appear of record. We command you therefore, that without delay you cause the said A. B. to have possession of and in the said, &c. We also command you that of the goods, chattels or lands of the said D. H. within your precinct, at the value thereof in money, you cause the said A. B. to be paid and satisfied the afore said sum of which to the said A. B. was adjudged for his costs and damages, and more for this writ ; and thereof also to satisfy yourself for your own fees. And for want of such goods, chattels or lands of the said D. H. to be by him shewn unto you, or found within your precinct, to the acceptance of the said A. B. to satisfy the afore said sums, we command you to take the body of the said D. H. and him commit to our gaol in P. and detain in your custody within our

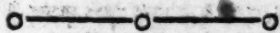
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said gaol until he pay the full sum abovementioned, with your fees, or that he be discharged by the said A. B. or otherwise by order of law. Hereof fail not, and make return of this writ with your doings therein, unto our said court of to be holden at P. upon the day of next. Witness R. W. Esq. at P the day of Anno Domini

R. G. Clerk.



WRIT of SCIRE FACIAS.

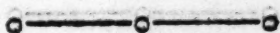
Is. } The STATE of NEW-HAMPSHIRE.

To the sheriff of any county in this State,
or his deputy,

Greeting.

WHEREAS A. B. of P. (addition) before our justices of our court of holden for and within our country of at P. on the day of by the consideration of our said justices; recovered against C. D. of E. (addition) the sum of debt or damages; and also cost and charges by him about his suit in that behalf expended, whereof the said C. D. is convict, as to us appears of record: And although judgment be thereof rendered; yet the execution for the said debt or damage, and cost doth yet remain to be made; whereof the said A. B. hath supplicated us to provide a remedy for him in that behalf: Now to the end that justice may be done, we command you that you make known to the said C. D. that he appear before our justices of our said court of to be holden for and within our said county of at P. on the Tuesday of to shew cause, if any he have, wherefore the said A. B. ought not to have his execution against him the said C. D. for his debt or damage and cost aforesaid; and further to do and receive that which our said court shall then consider; and have you there then this writ with your doings therein. Hereof fail not. Witness R. W. Esq. at P. the day of Anno Domini

R. G. Clerk.



L

WRIT

WRIT of REPLEVIN.

is. } The STATE of NEW-HAMPSHIRE.

To the sberiff of our county of
or his deputy, or constables of
the town of P. in the said county,
or to any or either of them.

Greeting.

We command you to replevie belonging
unto T. P. of C. (addition) now distrained, or im-
pounded by D. K. of P. (addition) and deliver the
said unto the said T. P. provided he give
bond to the value of pounds, with sufficient sure-
ty or sureties to prosecute his replevin at the next
court of to be holden at D. for the
county of afore said, on the day of
and so from court to court until the cause be ended ;
and to pay such cost and damages as the said D. K.
shall recover against him. And we command you to
summon the said D. K. if he may be found within
your precinct, to appear before our justices of our
court of to be holden at within and for
our said county of on the Tuesday of
then and there in our said court to answer to the said
T. P. in a plea of replevin

(Here insert the declaration)

To the damage of the said T. P. as he saith, the sum
of pounds, as shall then and there be made to ap-
pear, with other due damages. Hereof fail not, and
make return of this writ with your doings therein.

Witness R. B. Esq. at the day of
Anno Domini R. G. Clerk.

And the like form of *scire facias* and *replevin* to
be observed for matters cognizable before a justice
of peace, *mutatis mutandis*.

And be it further enacted, That the several forms
of writs and processes here under-written, shall be,
and hereby are established to be the forms to be
granted and used in civil causes, triable before a jus-
tice of the peace : (to wit)

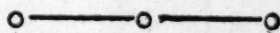


SUMMONS

SUMMONS for APPEARANCE.

State of } To the sheriff of the said county of
New-Hampshire. } his deputy, or to either of the
R. } constables of the town of P. in said
 } county.
 } *Greeting.*

In the name of the State of New-Hampshire, you are required to summon S. H. of P. aforesaid (*addition*) (if he may be found in your precinct) to appear before me T. P. Esq. one of the justices of the peace for the county of aforesaid, at in P. the day of at of the clock in the noon, then and there to answer to R. W. of K. (*addition*) in a plea of to the damage of the said R. W. (as he saith) the sum of shillings, as shall then and there appear with other due damages. Hereof fail not, and make due return of this writ, with your doings thereon, unto myself, at or before the said day of Dated at P. aforesaid, the day of Anno Domini T. P.



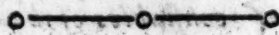
ATTACHMENT.

State of } To the sheriff of the said county of
New-Hampshire. } or his deputy, or to either of
R. } the constables of P. in said County.
 } *Greeting.*

In the name of the State of New-Hampshire, you are required to attach the goods or estate of A. B. of P. aforesaid (*addition*) to the value of shillings, and for want thereof to take the body of the said A. B. (if he may be found in your precinct) and him safely keep, so that he may be had before me, S. P. Esq. one of the justices of the peace for the county of aforesaid, at P. on the day of at of the clock in the noon, then and there to answer to E. T. of N. (*addition*) in a plea of to the damage of the said E. T. (as he saith) the sum of shillings, as shall then and there be made to appear, with other due damages. Hereof fail not, and

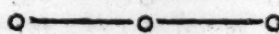
Forms of Writs in civil causes.

and make due return of this writ, with your doings therein unto myself, at or before the day of
 Dated at P. aforesaid, the day of Anno Domini S. P.

**SUMMONS** when **GOODS** are **ATTACHED**.

State of } To A. B. of P. in the county of
 New-Hampshire. } (addition)
 fs. } Greeting.

In the name of the State of New-Hampshire, you are required to appear before me, S. P. Esq. one of the justices of the peace, for the county of aforesaid, at P. on the day of at of the clock, in the noon, to answer unto E. T. of M. (addition) in a plea of which plea, the said E. T. hath commenced to be heard and determined before me, and your goods or estate are attached to the value of shillings, for security to satisfy the judgment which the said E. T. may recover upon the aforesaid trial. Fail not of appearance at your peril.
 Dated at P. aforesaid, the day of Anno Domini S. P.

**EXECUTION**, or **WARRANT** of **DISTRESS**.

R fs. } The STATE of NEW-HAMPSHIRE.

To the sheriff of our county of or his deputy, or either of the constables of the town of P. within our said county.

Greeting.

WHEREAS A. B. of P. (addition) on the day of before S. P. Esq. one of our justices of the peace for our county of R. aforesaid, recovered judgment against C. D. of H. (addition) for the sum of debt or damage, and cost of suit, as to us appears of record: whereof execution remains to be done. We command you therefore, that of the money of the said C. D. or of his goods or chattels (within your precinct) at the value thereof in money, you cause to be levied, paid and satisfied unto the said A. B. the aforesaid sums, being in the whole,

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whole, and also that out of the money, goods or chattels of the said C. D. you levy more for this writ, together with your own fees: And for want of such money, goods or chattels of the said C. D. to be by him shewn unto you or found within your precinct, to the acceptance of the said A. B. for satisfying the aforesaid sums; we command you to take the body of the said C. D. and him commit unto our gaol in H. and we command the keeper thereof accordingly to receive the said C. D. into our said gaol, and him safely to keep, until he pay the full sums above mentioned, with your fees; or that he be discharged by the said A. B. the creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said justice within sixty days next coming. Witness our said justice at P. the day of Anno Domini

S. P.

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SUBPÆNA.

State of }
New-Hampshire, } To
R fs. } Greeting.

YOU are hereby required in the name of the State of New-Hampshire to appear at the court of to be holden at within and for the said county of on to testify what you know relating to a plea of then and there to be heard and tried betwixt A. B. of, &c. plaintiff, and C. D. of &c. defendant.

Hereof fail not, as you will answer your default under the pains and penalties of the law, in that behalf made and provided. Dated at P. the day of Anno Domini A. D. Clerk.

This Act passed February 11, 1791.

AN ACT regulating process and trials in civil causes.

Passed Feb. 9, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That all writs and processess issuing from the superior court of judicature, court of common pleas and court of general sessions of the peace, shall be in the name of the State of New-Hampshire;

Writs to be sealed, tested signed, and how directed

Writs to be summons or attachment.

Service of writs.

How returned.

Justices writs &c.

Process to be in the English tongue.

Process not to abate for trivial errors &c.

Transitory actions where bro't.

Hampshire; shall be under the seal of the court whence they issue; shall bear test of the first justice of the court, who is not a party; and be signed by the clerk of such court; and may be directed to the sheriff, or his deputy, of any county in this State, and shall have force in any county, be obeyed and executed by any officer, to whom the same shall be lawfully directed: And all original process, in any of the courts aforesaid, shall be summons or attachment, and shall be made out in the forms prescribed by law; and in civil causes shall be served and executed fifteen days before the sitting of the court, to which such process is returnable, and shall be by the officer who executed the same, returned to the court from whence it issued, agreeably the command therein given; and all writs, issuing from any justice of the peace, shall be in the form by law prescribed, shall be under seal, signed by the justice, and may be directed to the sheriff, or his deputy, of the county for which such justice is commissioned, or to any of the constables of any town in the same county; and writs for trial before any justice of the peace shall be served and executed seven days before the day of trial, and shall be returned to the justice issuing the same.

And be it further enacted, That all writs, declarations, processes, indictments, answers, replications, and entries in the several courts of justice, and before any justice of the peace in this State, shall be in the English tongue, and no other.

And be it further enacted, That no summons, writ, declaration, return, process, judgment, or other proceeding in the courts, or court of justice, shall be abated, arrested, quashed, or reversed for any kind of circumstantial errors or mistakes, or for any errors or mistakes, where the person or case may be rightly understood and intended by the court, nor through defect or want of form only: And justices of the peace, and the justices of the several courts of judicature, are respectively empowered, on motion made, to order amendment in any of the cases aforesaid.

And be it further enacted, That all personal or transitory actions, where both parties are inhabitants of this State, may be commenced in the county, where in either of the parties to the suit may be an inhabitant, and not elsewhere in this State.

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And be it further enacted, That if any person shall cause process to be served upon another, for any matter or cause, and shall neglect to enter his said process, before the justice, or at the court, to which the same is returnable according to law, the said justice, and the several courts of judicature, are respectively empowered, upon complaint, to tax costs for the defendant, and to issue execution therefor; and if the plaintiff, after the entry of any action, shall become non-suit, the defendant shall be allowed his reasonable costs.

Discontinu-
ance.

Non-suit.

And be it further enacted, That when any defendant shall be duly served with process, and return hereof shall be made unto the justice, or unto the court to which the same is returnable, and such defendant shall not appear, by himself, or his attorney, his default shall be recorded, and the charge in the declaration shall be taken and deemed to be true, and the justice, and the courts respectively, shall thereupon give judgment for such damages, as they shall find upon inquiry that the plaintiff hath sustained.

Default.

Provided nevertheless, That if the defendant shall, after such default is recorded, and before the jury attending the same court, when and where such default was made, shall have been dismissed, or in case such default was made before any justice of the peace, when before the justice, the plaintiff, and his witnesses shall have dispersed, come into court, and request that the default may be taken off, and that he may have his day in court, the same shall be granted unto him, upon his paying unto the adverse party, the cost that shall then have arisen, or so much thereof as the court or justice shall judge reasonable.

Default ta-
ken off.

And be it further enacted, That all original writs, issuing out of the superior court of judicature, or the court of common pleas, shall before they are served be endorsed on the back thereof, near the bottom, by and with the name of the plaintiff, if he be an inhabitant of this State, or in like manner by his agent or attorney, being an inhabitant of this State, and where the plaintiff is not an inhabitant of this State, then the writ shall be endorsed in the manner aforesaid by some responsible person, who is an inhabitant of this State, and the plaintiff's agent or attorney, who shall so endorse

Endorse-
ment of writs

dorse his name as aforesaid, shall be liable, in case of the plaintiff's living out of the State, or upon the neglect, inability, or avoidance of the plaintiff, and return of *non est inventus*, or that such execution, as may have issued against the plaintiff, is unsatisfied, to pay the defendant all such costs as he shall recover, and to pay all prison charges that may happen, where the plaintiff shall not support his action, on *scire facias* to be brought against such endorser, within one year from the time of rendering judgment against the plaintiff, and not afterwards.

Service of writs:

And be it further enacted, That all writs of summons, *scire facias*, and writs of dower shall be served by reading the same to the defendant, or by leaving an attested copy thereof, with a copy of the service endorsed thereon, at the last and usual place of such defendant's abode; and a copy of the writ of dower shall also be left with the tenant or occupant of the land, whereof dower is demanded.

And when the goods, or estate of any person shall be attached at the suit of another, in any civil action, a summons in form of law, as is prescribed, shall be delivered to the party whose goods or estate are attached, or left at his or her dwelling house, or last and usual place of abode, fifteen days before the day of the sitting of the court, to which such writ of attachment is returnable.

What shall be mentioned in the summons.

And all such summonses shall set forth the sum in the note or bond declared on, with the endorsement thereon, with the dates thereof, the amount of the account annexed to the writ, or declared on, the quantity of land in ejectment, in covenant, what sum in damages is demanded, and for what; and in all cases shall briefly give the same information to the defendant, which the declaration gives more at large, and shall contain the substance thereof; and the officer serving, or leaving such summons, shall also endorse his name before he leaves it on the back thereof, otherwise the writ shall abate.

Officer shall endorse the summons.

Service where the defendant is not an inhabitant.

And in case the defendant, at the time of the service of any writ, be not an inhabitant, or resident in this State, and the writ be not served on him in person, but the defendant's goods or estate, within this State are attached, then an attested copy of the writ, and particular

particular description of the lands or goods attached thereby, shall be given to the defendant, or left at his last and usual place of abode; and the giving or leaving such copy shall be certified by the officer who made the attachment, or by some officer proper to execute the same, in the State where the defendant lives, or by some other person, and affidavit thereof made; or such copy may be left with the defendant's agent lawfully authorised to appear for him, or with the defendant's tenant, living on or near the land attached.

And be it further enacted, That no person imprisoned upon mesne process shall be holden in prison upon, or by virtue of such process, after judgment shall be rendered on such process, on which such prisoner may have execution against the plaintiff; or above the space of thirty days next after judgment shall be rendered thereon, upon which the creditor may have execution; nor shall the prison-keeper discharge a person committed on mesne process, where judgment shall be given on such mesne process for the plaintiff, on which execution may be taken out, until the expiration of thirty days from the time of rendering such judgment as aforesaid; that the creditor may, if he please, take his body in execution, unless the creditor shall by writing under his hand, order the prison-keeper sooner to discharge such prisoner. And all goods or estate attached to respond the judgment that may be given in any suit, shall not be released or discharged from such attachment, until the expiration of thirty days next after the rendering of such judgment, on which the plaintiff may have execution, or until judgment be rendered thereon for the defendant, upon which he may have execution against the plaintiff, to the intent that the plaintiff may levy his execution on the same goods or estate, unless such judgment shall be sooner otherwise satisfied.

And be it further enacted, That in all cases where an appeal is claimed and allowed, the appellant shall produce, and give in to the court appealed unto, attested copies of the writ, judgment, and all the papers and evidence, used and filed in the cause, at the court, or before the justice appealed from.—And each party, on the trial of an appeal, shall be allowed the

Persons imprisoned on mesne process when to be discharged.

How long goods, &c, attached, shall be holden.

Appeals.

benefit of any new and further evidence, and the appellant shall pay the entry, and jury fees at the court appealed to. And if any such appellant shall neglect to enter his appeal at the court appealed to, the justices of the last mentioned court, shall, on complaint made by the appellee, affirm the former judgment, in whole, or in part, in case the same was on demurrer, as to them may seem just and reasonable, with additional damages, not exceeding the lawful interest and costs, and in case the appellant shall not produce an attested copy of the case as aforesaid, or shall not, before the cause is committed to the jury, secure the payment of the jury fees, to the satisfaction of the court, or sheriff, he shall become non-suit, and costs shall be taxed for the appellee.

Execution.

And be it further enacted, That the several courts before mentioned, and justices of the peace respectively, be, and hereby are empowered to issue execution, in form by law prescribed, on every judgment by them respectively rendered, where no appeal is by law allowed, or where no appeal hath been, nor can be by law claimed or granted.

Provided always, That no execution shall in any case issue, until the expiration of twenty-four hours next after rendering judgment; nor then unless the right of appeal hath expired.

Review.

And be it further enacted, That every action tried in the court of common pleas, which originated before a justice of the peace, and came up to said court by way of appeal, and every action tried in the superior court of judicature, where the cause originated at the court of common pleas, may be reviewed in the courts respectively, where final judgment was rendered. And the party, bringing such action of review, shall produce in court, attested copies of the writ, judgment and all papers used and filed at the former trial. And either party may offer any new or further evidence, and when either party shall bring forward such action of review, the whole cause shall be tried in the same manner, as if no judgment had been given thereon. And the former judgment may be reversed in whole, or in part, or greater damages, or less, or no damages may be given, as the merits of the cause upon law and the evidence shall appear to require, in the

the same manner as if both parties had brought their several writs of review. And such actions shall be tried on the pleas made upon the former trial, upon record.

Provided, no action of review shall be brought after the expiration of three years, from the time of rendering the judgment to be reviewed.

Limitation.

Saving unto any infant, feme covert, person non compos mentis, person imprisoned, in captivity or out of the United States of America, the right of such review any time within three years, after such disability shall be removed.

Saving.

And provided also, That no action of review shall be brought, where by any particular statute, in any particular case, the liberty of review shall be expressly taken away.

And be it further enacted, That execution shall not be stayed for or by reason of any process of review.

Execution not to be stayed.

And be it further enacted, That where any party shall be desirous of reviewing any action, and the other party shall not be an inhabitant of this State, the writ may be served upon the agent or attorney, who endorsed the original writ, if such absent party was originally plaintiff, or in case such party was originally defendant, then on the attorney who appeared for said defendant, at the trial, where the judgment reviewed was rendered, or shall cause a copy of the review to be served on the adverse party, though out of the State, and affidavit thereof made. And in cases where personal notice is not given, the court may continue the cause one or more terms, in order that the party may have notice of the suit. And such writ of review shall be served by reading the same to the party, or to the agent or attorney as aforesaid, or by leaving an attested copy, as in other cases, whether there be one or more plaintiffs or defendants.

Service of writ of review in certain cases.

And be it further enacted, That no justice of the court of common pleas, general sessions of the peace, or superior court of judicature shall sit in the trial of any cause, on the appeal, which he hath before tried the court appealed from, nor shall he be admitted an attorney to plead or defend any cause in which he hath acted as a judge; nor shall any man sit as a

Disqualification of judges.

judge

Proceedings
in certain ca-
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judge in any cause where he hath been concerned as a party or an attorney.

And be it further enacted, That when on a plea in abatement, the judgment of the justice, or of the court of common pleas, as the case may be, shall be that the writ abate, and the same judgment be appealed from, and the court appealed to should reverse the said judgment, the said last mentioned court shall award the appellant his full costs at both courts, and issue execution therefor, and in case the same action was originally commenced before a justice of the peace, the plaintiff may cause the defendant to be served with the same process, and may proceed to trial on the merits before the justice, at a day by the said justice appointed; and any attachment made on the original writ, in case the process is renewed, at any time within three months from the judgment of reversal as aforesaid, shall be and remain good.

And in case the same action were originally commenced at the court of common pleas, the said court of common pleas shall, at the next term thereof, the plaintiff entering the action anew, proceed without any further notice to the defendant, in the same manner as though no such appeal had been granted. And any attachment made, or bail given on the same writ, shall in such case be liable and equally responsible, as though no such appeal had been allowed, or interlocutory judgment given.

And be it further enacted, That when a suit shall be brought against a person, who is not an inhabitant or resident in this State, and no personal service be made on the defendant, or when the person against whom any suit is brought, shall be absent from this State at the time of commencing such suit, and shall not have returned at the time appointed for trial, the justice of the court, before whom such suit is, shall continue the action to the next term, and if the defendant doth not appear at the next term by himself or attorney, the court shall further continue the action to the next term, unless the plaintiff shall produce evidence sufficient to satisfy the court, that the defendant hath had notice of the suit or process a sufficient time before such term, to have appeared at said court; and in all such cases, where judgment is en-
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Suits where
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entered up by default, after two continuances as aforesaid, and no notice proved as aforesaid, the proof of which notice shall always be in writing, and filed in the cause, execution or writ of *seisin* shall not issue, until the plaintiff or demandant shall have given bond, with sufficient surety, in double the value of the estate, or sum recovered by such judgment, to respond to the judgment that may be rendered on action of review, brought to reverse such original judgment, which action may be brought by the defendant at any time within one year next after the rendering of such original judgment, and such plaintiff in review may have the benefit of all pleas and advantages that he might have had, had he appeared and pleaded to the original suit, the default notwithstanding.

Provided always, That if the plaintiff in such original suit shall consent to have the action continued from term to term, six terms from the commencement of the suit, without any costs, after the second term, except for the court, or clerk's fees, he shall not be obliged to give any such bond, and the defendants shall not be entitled to any review.

And be it further enacted, That no person, against whom any action of ejectment, or trespass and ejectment shall be brought in this State, shall be held to special bail, but his or her own bail shall be deemed sufficient: And in any such action the writ shall not be abated because all the tenants are not sued, but those on whom the writ may be served shall answer for such part of the premises demanded, as he, she, or they claim, which the defendant, or defendants shall distinguish, and set forth in their plea, and disclaim the remainder. And if any shall disclaim the whole, unless the plaintiff shall prove such disclaimer's possession of all, or part of the premises demanded, such disclaimer shall recover costs against the plaintiff.

And be it further enacted, That in case of the death of either party, appellant or appellee, before the sitting of the court appealed to, or where any action is or shall be pending in any court of common pleas, or superior court of judicature in this State, and either party die before final judgment, the action or suit shall not thereby be abated, but the executor or administrator of such deceased party, in case the cause of action doth

by

Ejectments,
how prosecuted.

Writs and
actions not
to abate on
account of
the death of
parties.

by law survive, shall have full power to prosecute or defend any such suit, action or appeal, to final judgment and execution; and the defendant or defendants are hereby obliged to answer thereto accordingly: And the court before whom such cause may be, is hereby empowered and directed to hear and determine the same, and to render judgment for, or against the executor or administrator, in the same manner as though the action had been originally brought by, or against such executor or administrator. And if the executor or administrator of a deceased party, having been duly served with a *scire facias* from the office of the clerk of the court where the suit is pending, fifteen days before the sitting of the court to which the same is returnable, shall neglect or refuse to become a party to the suit, the court may render judgment against the estate of the deceased party, in the same manner as if the executor or administrator had voluntarily made himself a party to the suit; and in all cases where an executor or administrator shall become a party to such suit, he shall on motion to the court be entitled to one continuance of course.

Cause of action surviving the death of one plaintiff or defendant may be suggested on record, and action proceed.

The action being prosecuted, attachment is to remain good.

Vexatious actions on judgments, costs not to be allowed.

And be it further enacted, That if there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of action shall survive, to the surviving plaintiff or plaintiffs, against the surviving defendant or defendants, the writ or action shall not thereby be abated, but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

And in all cases where any party shall die, and the cause of action doth survive, and is prosecuted by or against the executors or administrators, the attachment made on the original writ shall be and remain good, in the same manner as though such party had not died.

And be it further enacted, That where any person shall commence an action on any judgment, obtained before any justice of the peace, or in any court of common pleas, or in any superior court of judicature in this State, upon which execution might at the time of commencing such action of debt have issued, if the court or justice before whom such action is brought, shall

shall be of opinion that such action is brought to vex and harass the defendant and debtor, and with design to increase the costs, and that the plaintiff or creditor might have availed himself of an execution on the same judgment, in a manner equally advantageous for obtaining his demand of his debtor, as that of a new suit on the same judgment, then, and in every such case, the court or justice, before whom any such action may be brought, shall not render judgment for costs in any such suit, in favor of the plaintiff or creditor.

And be it further enacted, That the clerks of the several judicial courts in this State, be, and they hereby are empowered respectively, to grant summons for witnesses in all causes pending in their respective courts; the summons to be directed to the person to be summoned, and to be made out in the form by law prescribed.

Witnesses to be summoned.

And every justice of the peace is hereby empowered to grant summons for witnesses in all causes, triable or pending in any court of law or equity in this State, and in all matters and causes before the general court, and in all causes pending or triable before himself, or any other justice of the peace, or in matters triable before referees or arbitrators, and to grant summons for witnesses to appear before him at a certain time and place, to give a deposition in any matter or cause where the same may be lawfully taken; such summons to be similar to that to be granted by the clerks of the several courts, and shall be directed to the person to be summoned as aforesaid.

Justices to grant summons in all cases.

And be it further enacted, That if any person served with lawful process, or summons before any court, justice or referees, to testify or give a deposition in any case where the same may be lawfully taken, and having tendered unto him or her, the fees by law established for the travel of a witness, from the place where such witness lives or resides, to and from the court or place where such witness is required to appear and testify, or give a deposition as aforesaid, and also the fees for one day's attendance, and at the end of every day the fees for the next day's attendance, if such attendance is required, if any such witness shall neglect to attend, and give his attendance as long

Penalty for not attending.

as

Courts, &c.
may grant
attachments

as the same shall be necessary, for the purpose for which he was summoned, or refuse to testify and give his deposition, if so required, and such witness having no reasonable excuse for such neglect, or refusal, every such witness so making default or refusal, shall be liable to the action of the aggrieved party, for all damages such party shall sustain by such default or refusal. And the court before whom any witness is required to appear and testify, and every justice of the peace before whom any witness is required to appear and testify, are hereby respectively empowered to bring any witness having been duly and lawfully summoned, neglecting or refusing to appear and testify, by attachment, and if upon examination it shall appear to such court, or such justice, that such witness had no reasonable excuse for such neglect or refusal, to fine him for such neglect or refusal; the fine imposed by any court of judicature not to exceed ten pounds, and the fine imposed by any justice of the peace not to exceed forty shillings, and the court and justice respectively may order him to pay the costs of attachment.

This act passed February 9, 1791.

Passed Dec.
11, 1792.

AN ACT in addition to, and in explanation of an act made and passed the ninth day of February, Anno Domini 1791, entitled, "An act regulating process and trial in civil causes.

Preamble.

WHEREAS in and by the aforementioned act, it is among other things provided "that no justice of the court of common pleas, court of general sessions of the peace, or superior court of judicature, shall sit in the trial of any cause on the appeal, which he hath before tried at the court appealed from." which clause has been so construed as in many cases to operate injuriously:

Justices not
disqualified
in certain
cases.

Therefore for amendment and explanation thereof, **B**E it enacted by the Senate and House of Representatives in General Court convened, That said clause shall not be intended or construed to disqualify, or prevent any justice of the superior court of judicature from sitting in the trial of any cause, where the appeal

was

was from any judgment rendered on demurrer, or any other plea where either party reserves liberty of waving his plea, and pleading anew at the superior court, and does artfully wave his first plea, and plead a new plea, said justice having sat in the trial of the cause at the inferior court of common pleas, or court of common pleas notwithstanding.

This act passed December 11, 1792.

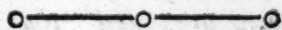
AN ACT establishing forms of oaths.

BE it enacted by the Senate and House of Representatives in General Court convened, That the forms Passed Feb. 8, 1791. of oaths in this act prescribed, be and hereby are established to be used and administered unto the officers and persons herein after mentioned, namely,

GRAND JURORS OATH.

YOU as grand jurors for the body of this county do solemnly swear, that you will diligently inquire; and a true presentment make of all such matters and things as shall be given you in charge; the State's counsel, your fellows, and your own you shall keep secret; you shall present no man for envy, hatred or malice; neither shall you leave any unpresented for love, fear, favor, affection, or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding.

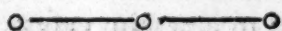
So help you GOD.



PETIT JURORS OATH in CRIMINAL CAUSES.

YOU solemnly swear that you will well and truly try, and true deliverance make, between the State of New-Hampshire, and the prisoner at the bar, whom you shall have in charge, according to law, and the evidence given you.

So help you GOD.



PETIT JURORS OATH in CIVIL CAUSES.

YOU swear that in all causes betwixt party and party,

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party, that shall be committed unto you, you will give a true verdict, according to law and the evidence given you.

So help you GOD.

FORM of an OATH to be ADMINISTERED to any TOWN OFFICER.

YOU do solemnly swear, that you will faithfully and impartially discharge and perform all the duties incumbent on you as a _____ according to the best of your abilities, agreeably to the rules and regulations of the constitution, and laws of the State of New-Hampshire.

So help you GOD.

Persons scrupulous of swearing may affirm.

Ceremony in swearing.

False affirmation punished as perjury.

And be it further enacted, That if any person, to whom it may be necessary to administer an oath, shall be of the denomination of the people called Quakers, or shall be scrupulous of swearing, and shall decline taking the oath in the ordinary way, the person, whose duty it may be to administer any oath to any such person, shall omit the word "*swear*" using instead thereof the word "*affirm*" and shall omit the words "*So help you God,*" using instead thereof the words,—" *This you do under the pains and penalties of perjury.*"

And be it further enacted, That no other ceremony shall be deemed necessary in swearing, than holding up the right hand.

And be it further enacted, That the persons in giving testimony, who affirm, shall, in case of wilful falsehood, on conviction, undergo the same punishment as is prescribed by law in the case of wilful perjury.

This act passed February 8, 1791.

Approved
Feb. 12,
1794.

Enacting
clause.

AN ACT directing the mode of administering oaths in certain cases.

BE it enacted by the Senate and House of Representatives in General Court convened, That the several justices of the peace within this State, within their respective

respective counties, be and they are hereby empowered to administer the oaths prescribed by the constitution to the field-officers, captains, and subalterns already appointed and not sworn, or that may hereafter be appointed in the several regiments in this State; and also to all coroners, sheriffs, and deputy sheriffs, and that any two of the council, or any one of the council with a justice of the peace, or any two justices of the peace, quorum unus, be empowered to administer the oaths aforesaid to all general and civil officers; and that any two justices of any court in this State be empowered to administer the oaths aforesaid to their respective clerk or clerks, and that they respectively make return of the same into the office of the Secretary of this State, within six months next after administering the same.

Approved February 12, 1794.

AN ACT for recording proceedings before justices of the peace, and for preserving such records.

BE it enacted by the Senate and House of Representatives in General Court convened, That each justice of the peace in this State, shall keep a fair record, in a book or books of records, to be by him kept for that purpose, of all proceedings, whether civil or criminal, had before him as a justice of the peace, and of all oaths by him administered to town or public officers.

And be it further enacted, That when any justice of the peace shall die, his executor, or administrator, or other person into whose hands and possession the records and files of such deceased justice shall come, shall as soon as may be, lodge the book of records and files kept by such justice of all business, civil or criminal, transacted by or before such deceased justice in his said office, with the clerk of the court of common pleas in the county in which such deceased person was a justice of the peace. And the said records, files and papers shall be there kept by the said clerk. And if any executor, administrator or other person, having received such records and papers into his custody, shall not within six months from the time of his having

Passed June 10, 1791.

Justices to keep records

to be lodged with the clerk of the common pleas after the justice's death.

Penalty for neglect.

Justice to leave his records, &c.

Penalty for neglect.

Justice may issue executions after the renewal of his commission.

Justices and clerks of common pleas to certify copies.

having so received them, lodge the same with the said clerk, he shall for every months neglect, after the expiration of the said term of six months, forfeit, and pay to any person who will sue for the same, the sum of twenty shillings.

And be it further enacted, That when any justice of the peace shall remove out of his county, he shall lodge his records and files as before mentioned, with the clerks as before mentioned, on penalty of forfeiting for every months neglect of lodging the same, after his removal from his county, the sum of twenty shillings, to any person who will sue for the same.

And be it further enacted, That when the commission of any justice of the peace shall be renewed, and he shall be re-invested in said office, he may issue executions on any judgments regularly and duly obtained or recovered before him, during any former appointment and commission, in the same manner (but not otherwise) as though his former commission had not expired.

And be it further enacted, That every person, who hath sustained the office of justice of the peace, shall and may on application to him, certify any proceedings had before him as a justice of the peace, and the clerk of the said court of common pleas, shall give attested copies of records and papers of deceased and removed justices, that may be lodged in his office. And they respectively shall be deemed for the purposes aforesaid, proper certifying officers.

This act passed June 10, 1791.

Passed Feb. 15, 1791.

Bail in civil causes liable to satisfy the judgment.

AN ACT regulating bail in civil causes.

BE it enacted by the Senate and House of Representatives in General Court convened, That where bail is given upon mesne process, in any civil action, for the appearance of the party to answer the suit, and to abide the order or judgment of the court that shall be given thereon, every such surety or sureties shall be obliged to satisfy the judgment obtained against the principal, in case of the principal's avoidance, and return of "*non est inventus*" upon the execution. And the party for whom the judgment was given, may have

have a writ of *scire facias* from the court where the original judgment was rendered, against such surety or sureties; and in case no sufficient cause is shewn to the contrary, shall have judgment thereon against such surety or sureties, for the damages and costs recovered against the principal, with additional costs of suit, and execution shall be granted therefor accordingly.

Provided always, That the surety or sureties in any suit, at the time of entering up final judgment against the principal, or at any time before such final judgment, may bring the principal into court, and move to be discharged, upon which he shall be discharged, and the court shall order the keeper of the prison to receive him into custody, that so his body may be taken in execution, and his body shall be holden the same time, and in the same manner, as though he had been committed on such mesne process for want of bail.

And provided further, That if the said surety or sureties shall at any time before *scire facias* brought, or before final judgment rendered against such surety or sureties, bring the principal into court, and move the court, to be discharged from such suit, the said court shall order the said surety to be discharged, such surety paying down in money to the creditor the costs that have already accrued in such suit against the surety. And the said court shall also order the said principal debtor to be committed, that the creditor may take him in execution; and he shall remain in custody of the said prison keeper, unless sooner discharged by the creditor, thirty days. And if the creditor shall not within the said space of thirty days take the said debtor in execution, the prison keeper shall discharge him upon his paying prison charges.

Provided always, That in all cases where the surety shall cause the principal to be committed, after final judgment rendered against the principal, and before *scire facias* brought against the surety, such surety shall within fifteen days after such commitment, notify the creditor in writing, or notify his attorney who appeared for him in the suit, that the principal stands so committed, in order that the body may be taken in execution, and that such plaintiff or creditor, may

not

Bail to be discharged upon delivering up the principal before judgment.

Principal to be committed.

Surety to notify creditor.

Scire facias
against bail
to be served
within one
year, &c.

Bail may
have remedy
against prin-
cipal.

Passed Feb.
9, 1791.

Depositions
may be taken
by a justice.

Adverse par-
ty notified.

Caption.

not be at the expense of suing out a *scire facias* against the surety.

And be it further enacted, That no *scire facias* shall be served upon the bail, unless it be done within one year next after entering up final judgment against the principal.

And be it further enacted, That the bail may have his, or their remedy, by action on the case, against his or their principal, for all damages sustained by their becoming his sureties.

This act passed February 15, 1791.

AN ACT for the taking of affidavits out of court.

BE it enacted by the Senate and House of Representatives in General Court convened, That in the trial of all civil causes, when witnesses in any such cause are bound to sea, are old and infirm, are sick and unable to appear at court, or live more than ten miles from the place of trial, their depositions may be taken by a justice of the peace.

Provided, That if the adverse party live within this State, or if not living within this State, but shall live within twenty miles of the place of caption, or within the like distance from the party proposing to take any such affidavits, a reasonable time previous to the taking such deposition, a notification in writing, signed by the justice, shall be delivered to such adverse party, or left at his usual place of abode; and in such notification shall be expressed the day, hour and place of taking the same.

And every such witness shall be sworn to testify the whole truth, and nothing but the truth; and the justice shall attest the same, with the time of the caption, and that the adverse party was present, or not present; notified or not notified; and if present, did, or did not object, as the case may be; and shall also certify the cause of taking such deposition, and shall seal up the said deposition, and it shall be so delivered into court; or otherwise the justice shall deliver the same with his own hand to the court.

And be it further enacted, That no person, interested in any suit or cause, shall write the testimony of any such

such witness ; nor shall any attorney write the testimony of any witness in his client's cause.

And be it further enacted, That all affidavits relating to the possession of any houses, lands or tenements, or relating to any other matter, in *perpetuam rei memoriam*, or in perpetual remembrance of such transaction or thing, shall be made and taken before some court of record, or before any two justices of the peace, one of whom shall be of the quorum.—And such affidavit being recorded in the registry of deeds (which, in case such deposition relate to any real estate, shall always be the registry of deeds in the county where such real estate lies) a copy of such record, (the original being lost) may be read in evidence in any court, as occasion may require in such cases, where the original might lawfully be admitted.

This act passed February 9, 1791.

No person interested or attorney to write the testimony.

Affidavits in perpetuam.

AN ACT relating to Attornies.

BE it enacted by the Senate and House of Representatives in General Court convened, That the plaintiff or defendant in any cause, prosecution or suit, being a citizen of this State, may appear, plead, prosecute or defend, in his proper person, or by such other citizen of this State, being of good and reputable character and behavior, as he may engage and employ, whether the person so employed be admitted as an attorney at law, or not.

And be it further enacted, That all attornies commonly practising in any of the courts of justice within this State, shall be under oath, which oath shall be administered to them by the clerk, in open court, before the justices of the same, at the time of their being admitted to such practice, in the tenor following—That is to say,

YOU solemnly swear, that you will do no falsehood, nor consent that any be done in the court, and you know of any, that you will give knowledge thereof to the justices of the court, or some of them, that it may be reformed ; that you will not wittingly or willingly promote, sue or procure to be sued, any false or unlawful suit, nor consent to the same ;

Passed Feb. 17, 1791.

Any person may appear and plead by himself or any other person.

Attornies to be sworn.

Oath.

you

you shall delay no man for lucre or malice, but shall act in the office of an attorney within the court according to the best of your learning and discretion, and with all good fidelity as well to the court as your client.

So help you GOD.

But one attorney to be taxed.

And but one attorney to be taxed in any bill of cost, any law, usage or custom to the contrary notwithstanding.

This act passed February 17, 1791.

Passed June 19, 1789.

Preamble.

AN ACT for the appointment of solicitors general. *WHEREAS* it sometimes happens, that the attorney general cannot attend the courts of general sessions of the peace in the several counties.

Therefore,

President to appoint solicitors.

BE it enacted by the Senate and House of Representatives in General Court convened, That the president, with advice of council, be empowered to appoint some person in each county to act as a solicitor in behalf of the State, who, in the absence of the attorney general, shall have all the powers and authority of attorney general, and who shall be entitled to all the fees and perquisites thereunto belonging.

This act passed June 19, 1789.

Passed Feb. 8, 1791.

Clerk of superior court to issue venires.

AN ACT regulating the choice and service of grand jurors.

BE it enacted by the Senate and House of Representatives in General Court convened, That forty days at least, before the sitting of the superior court of judicature in each county in this State, at the first term by law appointed for holding the same, the clerk of said court shall issue a precept to the clerk of each town, within the county in which such court is to be holden, or to the clerks of so many of the said towns, as the said court shall order, requiring the clerks to whom the same shall be directed, to warn the meeting of the inhabitants of his town qualified to vote for representatives, to choose one or more persons, as in said precept shall be ordered (each of whom

to have an estate of fifty pounds) to serve as grand jurors at said court.

And the said town clerk shall, seven days at least before the day of holding the meeting for choosing such grand jurors, post up at the usual place of notifying meetings in such town, a notification for the inhabitants to assemble, for the purpose of choosing grand jurors, agreeably to the precept to him directed. And the said inhabitants, when assembled, shall proceed to choose a moderator to govern said meeting, and shall thereupon elect such number of grand jurors, as may be required of them; and the persons chosen, shall, four days at least before the sitting of said court, be notified of their appointment, and of the time when, and place where they are ordered to attend, which shall be mentioned in such precept, or, a notification shall be left the like number of days at such juror's place of abode; and the town clerk shall make return of said precept to the clerk of the court whence it issued, on the first day of the sitting thereof, at such hour as in said precept shall be ordered, with his doing thereon. And when any person chosen as aforesaid to serve as grand juror, shall make sufficient excuse, in the judgment of those assembled at any such town meeting, they may excuse such person and proceed to choose another.

Town clerk
to call a meeting.

Grand jurors
to be chosen.

notified

and returned.

And the persons chosen, returned and attending as grand jurors, shall be empannelled and sworn as the grand inquest of the county for that term.

And be it further enacted, That the clerk of the court of general sessions of the peace in each county in this State, shall once in every year, at such term as said court shall order, forty days previous to the sitting of the court, issue a precept to the clerk of each town in said county, or to the clerks of so many of said towns as the said court shall order, requiring the said town clerk to warn a meeting of the inhabitants of his town, qualified as aforesaid, for the purpose of choosing such number of grand jurors, as in the same precept shall be ordered, who shall have the same qualifications as before mentioned for jurors for the superior court, and such meeting shall be notified, governed and holden in the same way and manner as

Clerks of
sessions to
issue venires.

Town meeting called & grand jurors chosen.

Notified

& returned.

Penalty on town clerks for neglect.

Penalty on towns for neglect.

Penalty on jurors for neglect.

is before mentioned, with respect to jurors for the superior court; and the person chosen at any such meeting to serve as grand juror, giving sufficient reason therefor, may be excused from serving, by the qualified voters present, and another be chosen in his room. And the town clerk shall notify the person chosen as grand juror in the same manner and season, as grand jurors for the superior court are to be notified, and shall make return of the precept to him directed, with his doings thereon, on the first day of the sitting of said court, at such hour as in said precept shall be ordered. And the persons so chosen, returned and attending as grand jurors, shall be empannelled and sworn as the grand inquest for said county, and shall continue in the said office for the term of one year, from the term at which they are empannelled, and until others be chosen and sworn in their stead, and shall attend the said court at every session thereof by law established, during the term aforesaid. And if any town clerk, having received such precept from the clerk of either of the courts aforesaid, shall neglect to warn a meeting of the inhabitants of his town qualified as aforesaid, or shall neglect to notify and summon the persons chosen grand jurors at any legal meeting, or shall not make due return of the precept to him directed with his doings thereon, he shall pay such fine as the court, by whose order the said precept issued in their discretion may impose, not exceeding the sum of five pounds.

And if any town, duly notified as before mentioned, in either of the cases aforesaid, to choose grand jurors for the superior court of judicature, or the court of general sessions of the peace, shall neglect to choose as many men duly qualified as aforesaid, and able to attend the duty as are directed in the precept laid before such town by the town clerk as aforesaid; such town shall be amerced in such sum, as the court, by whose order such precept issued, shall order, not exceeding the sum of six pounds.

And if any person, chosen and notified to attend as aforesaid, shall unnecessarily, and without sufficient excuse, neglect to attend agreeably to the notice given him, he shall be fined by the court, by whose order the precept issued, in a sum not exceeding three pounds.

ounds. The said fines to be paid to the county treasurer, and to be for the use of the county.

And if a sufficient number of grand jurors do not appear, the respective courts may order the Sheriff to return grand jurors, of such persons present, as occasion shall require, and the said court shall judge necessary, provided the number wanting do not exceed five; and the said Sheriff is hereby ordered and directed to do the same accordingly.

Sheriff by order of court to return tales.

And the clerks of the respective courts before mentioned shall cause the precepts for the appointment of grand jurors to be delivered to the town clerks to whom they are directed at least twenty-five days before the sitting of the court to which they are returnable, or to be delivered to the Sheriff of the county in which such grand jurors are to assemble, at least forty days before the sitting of the court to which such precepts are returnable.

Venires to be delivered to the town clerk 25 days before court.

And the said Sheriff shall cause all such precepts as are delivered to him reasonably, to be delivered to the town clerks to whom they are directed, at least twenty-five days before the day of the sitting of the court to which they are returnable. And if either of the said clerks or Sheriffs shall make default herein, they shall severally be amerced by the respective courts where such default shall be made, for each and every offence or neglect, a sum not exceeding three pounds. And the respective town clerks shall be paid by the several towns to which they belong, a reasonable sum for the performance of the duties enjoined on them by this

Penalty for neglect.

Town clerks to be paid.

This act passed February 8, 1791.

ACT directing and regulating the appointment and choice of petit jurors.

Passed June 17, 1785.

WHEREAS it is of the utmost importance, that impartial jurors should be appointed to serve in the several courts of justice in this State:

Preamble.

BE it enacted by the Senate and House of Representatives in General Court convened, That the selectmen of each town, and of each parish (having the privilege and power of towns) within this State, shall take

The selectmen of each town to

make lists of the names of persons qualified to serve on the petit jury.

take a list of the names of all persons living within their respective limits, qualified in the opinion of the selectmen to serve as petit jurors; each of whom to have an estate of freehold of *forty shillings* per annum, or other estate to the value of *fifty pounds*; and shall choose out of such list, one third part of the number of the names contained therein, of such persons as they shall judge most suitable to serve as jurors at the superior court, and shall write their names on separate pieces of paper, and put them into a box, to be by said selectmen provided for that purpose; and the remainder of the names in such list, to be written as aforesaid, and put into another box, to be so provided; and the persons whose names shall be so put in the last mentioned box, shall serve on the petit jury, at the inferior court of common pleas, and court of general sessions of the peace; which boxes shall be delivered to the town or parish clerk, to be by him kept under lock.

The *venire facias*, how to be issued.

To be done thirty days, at least, before the sitting of the court.

Method of appointing them.

And be it further enacted, That the *venire facias* for said jurors, shall be issued by the clerks of the respective courts aforesaid, thirty days, at least, before the day of the sitting of the court to which it is returnable; and shall be directed to the clerk of the town or parish, requiring him to cause so many persons to be appointed and returned, of those duly qualified, within the town or parish of which he is clerk, as shall be mentioned in the *venire* (and as shall be ordered by the justices of said courts, respectively) who shall thereupon, immediately notify a town or parish meeting, according to the customary method of calling such meetings, within such town or parish respectively, to be held, at least, six days before the sitting of the court to which the *venire* is returnable. And that such appointment of jurymen may be fairly and impartially transacted, the town or parish clerk, or in case of his absence or sickness, one or more of the selectmen shall carry into the meeting the proper box locked, which shall be unlocked there, and the town or parish clerk, or a selectman, attending as aforesaid, shall draw out of the said box, before the persons assembled, so many of the papers in said box, as there are jurors required by the *venire*; and the persons whose names shall be so drawn out of the box,

box, shall serve accordingly : Excepting any, whose names shall be drawn out, shall be then sick, or any otherways unable to serve, in the judgment of those upon that occasion assembled ; in which case their names shall be returned into the box and others drawn in their stead. And that the same persons may not serve too often, the clerk or selectmen, who shall draw out the names as aforesaid, of such as shall be returned to serve as jurors, shall enter on the back of the paper on which such names shall be written, the time when such draught shall be made, and return the same into the box again. And no person shall be obliged to serve as a juror (although his name shall be drawn as aforesaid) oftener than once in three years. And for the more orderly proceeding at such meeting, the qualified voters, in town affairs, who shall be present, may and shall first proceed to choose a suitable person, then present, to be moderator of the meeting, and to govern and regulate the business of such meeting. And until a moderator shall be so chosen, the town clerk, or in case of his absence as aforesaid, a selectman shall govern the said meeting. And the selectmen aforesaid, shall, once every year regulate the said lists, by adding thereto any new names of persons becoming qualified since the last regulation ; and by filling up the vacancies made by death, or other disability, in the said boxes ; and also, by transferring the names from one box to the other as there may be occasion, by the addition of young men's names to the list, or otherways.

Who may be excused.

The names of those who serve to be entered on the papers, &c.

None to serve oftener than once in three years.

Lists to be regulated once a year.

And when any person shall be appointed to serve as a juror, in manner aforesaid, the town or parish clerk shall send a notification thereof in writing, by the hand of a constable to the juror, which shall be delivered to him, or left at his dwelling house, at least four days before the day of the court's sitting, at which he is to serve ; which notification shall set forth the time when such juror's name was drawn, the name of the court at which he is to serve, and the day when he must appear there. And the said town and parish clerk respectively shall certify to the clerk of the court, who issued the *venire*, on the back thereof, the names of the persons so appointed

Town clerk to send notice to the persons appointed.

The names of the jurors to be certified on the *venire*.

Penalty for
not attend-
ing.

The court
may put ju-
rors to an-
swer upon
oath, respect-
ing their im-
partiality.

Jurors may
be appoint-
ed during
the sitting of
the court.

Penalty for
non attend-
ance.

to serve as jurors, and that they have been duly notified as aforesaid, at least the day before the sitting of the court to which the *venire* is returnable. And if any person who shall be so appointed and notified to serve as a juror, shall neglect to attend accordingly, he shall be liable and subject to the fine and penalty of thirty shillings.

And be it further enacted, That the justices of the respective courts aforesaid, are hereby directed upon motion from either party in the cause to be tried, to put a juror to answer upon oath (whether returned as aforesaid, or as a talesman) whether he doth expect to gain or lose by the issue of the cause then depending? Whether he is any ways related to either party? And whether he hath been of counsel to either party, or directly or indirectly given his opinion, or is sensible of any prejudice in the cause? And if it shall appear to the court, that such juror does not stand indifferent in said cause, he shall be set aside from the trial of that cause and another appointed in his stead. And the sheriff and coroner respectively, are hereby authorized to fill up a jury, by returning talesmen as the case may require.

And be it further enacted, That upon any emergency, a sufficient number of jurors may be appointed and summoned, while such courts respectively are sitting. And the *venire* shall be issued to the town or parish clerk immediately, and the names drawn according as this act directs. And in such cases, the town and parish clerk, respectively shall order the constable or constables of the town or parish respectively, to warn a meeting forthwith, and the number of jurors required in the *venire*, shall be immediately drawn and appointed as aforesaid, and notified to attend the service of the court from whence the *venire* issued, which shall be returned as soon as may be. And the jurors so appointed and notified, shall immediately attend accordingly, on the pains and penalties aforesaid, in case of neglect so to do. And the town and parish clerks aforesaid, shall be paid for the services enjoined them by this act, what is reasonable, by the towns and parishes in which they serve, yearly.

This act passed June 17, 1785.

AN ACT for the more speedy recovery of small debts, and to save the cost usually attending the recovery thereof in the present course of the law. Passed June 28, 1787.

WHEREAS the common and ordinary method of recovering small debts proves very burthensome to poor debtors :

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That any person or persons, who shall voluntarily appear before any justice of the peace, in the county where he, she or they live, and confess that he, she or they do justly owe, and stand indebted to any other person or persons in any sum not exceeding ten pounds, and that such person or persons consent that a record thereof be made, and execution issued accordingly, or be stayed for such time as may be agreed by the parties ; the justice is hereby authorized and directed to make a fair record of such confession and agreement, and to order the person or persons so confessing, and likewise the creditor or his agent to sign the same ; and the justice shall enter up judgment thereon, and issue execution according to such judgment. And such justice shall enter on the evidence of the demand, the sum for which judgment was confessed, together with the time and place of doing the same, and keep the same in a proper file for that purpose.

Preamble.

Persons confessing a debt the justice shall enter up judgment & issue execution.

And be it further enacted, That such execution may be served (within said county) in the same manner as executions issued from the inferior court by law may be done.

How executions may be served.

And be it further enacted, That any two or more persons, having a controversy between them of ten pounds value, or under, may apply to a justice of the peace, and enter into a rule, to refer the same to such person or persons as they may agree upon, and the said justice is hereby empowered to receive the report, enter up judgment and issue execution thereon, for the damages and costs of suit : provided the damages do not exceed the sum of ten pounds : which report being received, and judgment entered thereon as aforesaid, the same shall be final and conclusive between the parties.

Persons having a controversy may refer the same.

This act passed June 28, 1787.

AN

Passed Feb.
9, 1791.

AN ACT regulating fees.

BE it enacted by the Senate and House of Representatives in General Court convened, That the fees of the several officers and other persons herein after mentioned shall be as follows, viz.

Fees of the justices of the peace in civil causes.

For every writ of summons or writ of attachment with summons, one shilling.

For every writ of subpœna, six pence.

For the entry of every action or complaint, including filing the papers, entering judgment, and appearance and recording, three shillings and four pence.

For every execution, one shilling.

For granting an appeal, one shilling.

For entering satisfaction of a judgment on record, six pence.

For taking affidavits out of court, two shillings for swearing each witness and making the caption; and one shilling for writing each page of the deposition and for the justice's travel to swear witnesses, at the rate of two shillings for every ten miles, actual travel. The justice's fees for travel and taking affidavits, and the witnesses travel and attendance shall be certified by the justice in the affidavit, otherwise the justice shall not be allowed any thing for his fees.

For taking affidavits in perpetuam, the same fee to each justice as for the taking of other depositions.

For taking and certifying the acknowledgment of any deed or other instrument, one shilling, but if there be more than one person who shall acknowledge the same instrument, and the acknowledgment be made at different times, then one shilling for each time of taking and certifying.

For granting warrant of appraisement and swearing the appraisers, one shilling and six pence.

For every actual trial upon issue joined either upon matter of law or of fact, two shillings.

For administering oaths in all other cases and certifying the same (except the oaths of office administered to town officers, and oaths administered to witnesses in the trial of causes before the justice) one shilling.

Fees of justices of the peace in criminal cases.

For every warrant founded on a complaint for any offence, one shilling.

For drawing a complaint, two shillings.

For granting an appeal, one shilling.

For every recognizance, one shilling.

For taking bail of persons committed in criminal causes, two shillings for each offender.

For every examination, two shillings.

For every entry of a complaint and judgment thereon, two shillings and nine pence.

For warrant of commitment and every other warrant, except those above mentioned, three shillings, and for every adjournment, one shilling.

In cases of forcible entry and detainer.

The justices for every day's attendance, six shillings each.

To the witnesses and parties the same as in other cases.

To the jurors, two shillings per day for their attendance, and the same travel as jurors at the superior court.

To the sheriff, six shillings per day.

Justices fees at the court of general sessions of the peace.

To each justice for each day's attendance, to be paid out of the county treasury, three shillings and two pence per mile for travel, to and from court.

There shall be paid to the clerk of the court of general sessions of the peace for the entry of every complaint, action or petition, nine shillings, of which he shall pay to the county treasurer seven shillings and eight pence.

For every recognizance in criminal cases, one shilling, two thirds of which he shall pay to the county treasurer.

For discharging every recognizance six pence.

For every warrant for criminals, one shilling.

For examining the grand jurors accounts, yearly, and order thereon to the county treasurer, one shilling and six pence.

For entering satisfaction of judgment on record, one shilling.

For a writ of protection, one shilling.

Fees

Fees of the justices of the court of common pleas.

For every action, petition or complaint, entered in the court of common pleas, the justices thereof shall be paid five shillings and four pence.

For every appeal, one shilling.

For receiving the proof of a deed in court, one shilling.

For granting a writ of protection, one shilling.

Fees of the clerk of the court of common pleas.

For every action, petition or complaint, entered in the court of common pleas the clerk thereof shall receive three shillings and eight pence, in full for entry, verdict, non-suit or default, judgment, recording and every other service relative to such action, petition or complaint, for which no fees are otherwise particularly prescribed by this act; the said clerk paying thereout the crier's and sheriff's fees, for default or non-suit, said sum, together with five shillings and four pence for the justices, to be paid at the time of entry.

For a blank writ and summons, six pence.

For a writ of protection, nine pence.

For each execution, one shilling.

For entering satisfaction of a judgment, four pence.

For entering a continuance, eight pence.

For each venire, to be paid out of the county treasury, three pence.

For every writ of possession, one shilling and six pence.

For each writ of subpoena, six pence.

Fees of the justices of the superior court.

For the entry of every action, petition or complaint at the superior court, the justices thereof shall be paid twelve shillings.

For taking special bail, two shillings.

For a writ of habeas corpus, one shilling and four pence.

For allowing a bill of cost, eight pence.

For granting a writ of protection, one shilling.

For every deed proved in court, one shilling.

For allowing a writ of error, one shilling.

For every acknowledgment of satisfaction of judgment on record, one shilling.

Fees of the clerk of the superior court.

For the entry of every action or petition, four shillings.

For entry of a complaint for not prosecuting an appeal, two shillings.

For entering a judgment, and recording it at large, two shillings.

For a writ of review, three shillings.

For a writ of scire facias, three shillings.

For writ of execution, one shilling and six pence.

For a writ of possession, three shillings and six pence.

For a writ of habeas corpus, two shillings.

For entering an appearance at the request of any party, six pence.

For entering a satisfaction of a judgment on record, eight pence.

For entering a continuance, one shilling.

For filing papers, one penny half penny each.

For certifying the proof of a deed in court, one shilling.

For each venire, on certificate of the justices of the superior court, three pence, to be paid out of the county treasury.

For a subpoena, one shilling.

For every recognizance, one shilling.

For every writ of protection, one shilling.

For discharging a recognizance, one shilling.

Sheriff's fees.

For the service of a writ of summons or scire facias, either by reading it, to the defendant or leaving a copy, one shilling and four pence for each defendant.

For the service of a writ of attachment with or without a summons, one shilling and four pence, for each defendant.

For a bail bond, to be paid by the person bailed, one shilling.

For the service of a writ of possession, the same as for the service of the original writ on which it was obtained, with poundage for the costs as in personal actions.

For levying executions in personal actions and extents, six pence on the pound for the first twenty pounds; three pence on the pound for the second twenty pounds; two pence on the pound for all sums

sums between forty and an hundred pounds, and one penny on the pound for all sums above one hundred pounds; the poundage on extents to be taken in the same paper bills, notes, orders or certificates, as the same extent issued for.

For travel for the service of each writ, execution or extent, two pence per mile; the travel to be computed from the place of service to the office, place or court to which the writ is returnable, by the way most commonly used: And where there are several persons in the same writ, execution or extent, upon whom it is served, the travel shall be computed from the remotest of them, and no more to be allowed for travel than if it was served only on the remotest person as aforesaid; provided that no more than fifty miles travel shall be allowed the sheriff or other officer serving any writ, execution or extent, in any case: The travelling fees, and fees of service to be endorsed on the writ in mesne process, and no more shall be allowed in any case than is so endorsed; and also the fees for service, poundage and travel, on executions and extents, shall be particularly set down and expressed thereon.

For summoning witnesses, one shilling each.

For serving a writ of execution for partition of real estate, on a judgment of court, five shillings per day and for travel and expenses, three pence per mile.

For every trial, eight pence, to be paid with jurors fees.

For every default, four pence.

For attending the grand jury, two shillings per day.

For attending the petit jury, nine pence each case to be paid with the jury fees.

For dispersing venires, three pence each, to be paid out of the county treasury.

For dispersing proclamations, to be paid out of the county treasury, three pence each.

Coroner's Fees.

For serving writs, the same fee for travel and service as to the sheriff.

For every trial where the sheriff is concerned eight pence to be paid with the jury's fees.

For taking an inquisition, nine shillings.

To the foreman of the jury, three shillings, and other

other jurors two shillings and six pence per day, and one shilling for every ten miles travel.

To the constable, his expenses in summoning the jury of inquest and attendance, four shillings per day; all fees attending any inquisition on the death of any person, shall be paid out of the estate of the deceased, and, in want thereof by the county treasurer, the same being adjusted and allowed by the court of sessions.

Constable's fees.

For the service of writs, warrants and executions, and for travel, the same as to the sheriff.

Crier's fees.

For every default or non-suit, eight pence.

For every verdict, to be paid with the jury's fees, eight pence.

Judge of probate and register's fees.

For granting administration or guardianship, six shillings, including the bonds, letters of guardianship and administration, whereof two thirds to the register, and if more than one minor be put under the same guardian at the same time, then for every such one to the judge six pence, and to the register one shilling.

For taking the proof of a will or codicil, entering the oaths of the witnesses and certifying the same, and recording the whole, if but one page, eight shillings, to be equally divided between the judge and the register; if more than one page, then the same for recording every such page, as in other cases, to the register only.

For examining accounts of executors, administrators or guardians, two shillings a page.

For allowing and making a decree on such accounts, three shillings.

For every allowance and confirmation of the division of any real estate, three shillings.

For every citation, one shilling to the register, and to the judge one shilling.

For every order or warrant for dividing real estate, one shilling to the judge and two shillings to the register.

For every commission to examine claims to insolvent

vent estates, two shillings to the register and one shilling to the judge.

For every licence to sell estate real or personal, three shillings, one half to the judge and the other half to the register.

For making the proportion among the creditors to an insolvent estate, to be allowed six shillings for every twenty creditors, and in that proportion for a greater number.

To the judge for a decree or order to the executor or administrator to pay the several creditors according to the computation and proportion aforesaid, two shillings.

For a quietus, one shilling to the judge and one shilling to the register.

For attending a dispute concerning the right of parties in any case, and an hearing by counsel, including the decree thereon, three shillings to the judge and three shillings to the register.

For granting an appeal to the supreme court of probate, and taking bond for prosecution, three shillings, to be equally divided between the judge and register.

For passing an order for putting any bond in suit, two shillings, to be equally divided between the judge and register; and three shillings for taking a bond of indemnification, one half to the judge and the other half to the register.

Fees in the secretary's office.

For every commission for any person to an office of profit, to be paid by the person commissioned, five shillings.

For every certificate under the seal of the State, three shillings.

For every military commission, to be paid out of the public treasury, three shillings.

For each petition, of a private nature, to the general court, three shillings, to be paid by the petitioner.

Gasler's fees.

For receiving any prisoner into custody, one shilling and six pence, and the like fee for discharging the prisoner.

For each prisoner's diet, five shillings per week.

Grand

Grand jurors fees.

To the grand jurors, two shillings and six pence per day, to be paid out of the county treasury, and two pence per mile for their travel to and from the court.

Petit jurors fees.

To the foreman in every cause at the superior court, two shillings and six pence.

Each other juror, two shillings.

And at the court of common pleas and court of general sessions of the peace, to the foreman in each cause, two shillings, and to each other juror, one shilling and six pence.

And each juror, whether grand or petit, attending either of the courts aforesaid, shall be paid out of the treasury of the county where said court is holden, two pence per mile for his travel to and from the court.

Parties and witnesses fees.

The parties and witnesses before any justice of the peace and at any of the courts aforesaid, shall be allowed for each day's attendance, one shilling and six pence, and for every ten miles travel out and in, one shilling and six pence, a ferry to be reckoned as five miles travel.

To the party for summoning witnesses, the same as the sheriff when he does it, one shilling each witness.

Every plaintiff in his bill of cost, in cases where the defendant is defaulted, never having made any appearance or defence, shall be allowed no more travelling fees, than for what he travels in the county where the court is holden, in the most usual way of travelling from the place where he lives to the court.

Fees of the recorder of deeds.

For a certificate on a deed of the time when, and the place where recorded, and for every other certificate by him made, three pence.

For examining the records at the request of any person, three pence for each book examined.

For discharging a mortgage on the record, as the law directs, one shilling.

Fees of notary public.

For every protest under seal, six shillings.

For

For every certificate under seal, three shillings.

For waiting on a person to demand payment, or to witness any matter, and certifying the same under seal, six shillings.

Attorney's fees.

There shall be allowed in every bill of cost taxed for the plaintiff in the court of common pleas, the case originating there, eight shillings for the writ including the declaration and attorney's fee.

And to the defendant recovering cost in said court, and the party, whether plaintiff or defendant, recovering costs on an appeal from a justice of the peace, there shall be taxed six shillings and eight pence for attorney's fee.

There shall be allowed in every bill of cost taxed for the complainant or petitioner in the court of general sessions of the peace, eight shillings for the complaint or petition, including attorney's fee, and when the respondent or party petitioned against recovers costs, there shall be allowed six shillings and eight pence, as attorney's fee.

And in case of an appeal from a justice of the peace, the party recovering costs in the court of general sessions of the peace shall be entitled to six shillings and eight pence, to be taxed in the bill of cost for attorney's fee.

For the party recovering a bill of cost at the superior court, for attorney's fee, twelve shillings.

For every complaint entered at the superior court, including drawing the complaint, eight shillings.

Attorney's fee for drawing a writ triable before a justice of the peace, three shillings.

Attorney's fee for pleading for a defendant before a justice of the peace, three shillings.

Drawing a complaint for discontinuance of an action before a justice of the peace, three shillings.

To the secretary of the State, the clerk of the superior court of judicature, clerk of the court of common pleas, and clerk of the court of general sessions of the peace, justices of the peace, register of deeds, register of probate, town clerks, notaries public, sheriffs and all other persons, whose duty it may be by law to give any copies, or to record any proceedings other than such for which particular fees are or shall be

be established, there shall be allowed nine pence for every page so recorded or copied, reckoning two hundred and twenty-four words for a page, and any part less than a page, six pence, and for every certificate on a copy of the whole case, six pence.

And be it further enacted, That if any person or persons shall demand or take any greater fee or fees for any of the services mentioned in this act, or any other law, of this State, than is herein, and thereby provided and declared, he or they shall forfeit and pay to the person or persons suing for the same, the sum of ten pounds for every such offence, to be recovered by action of debt in the court of common pleas, besides being liable to an action for damages, by and for the party injured, to recover back the sum or sums so unlawfully taken.

This act passed February 9, 1791.

AN ACT for setting off debts, mutual demands and executions against each other.

Passed Feb. 8, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That where there are mutual debts or demands between the plaintiff and defendant, or if either party sue or be sued as executor or administrator, where there are mutual debts between the testator or intestate and either party, one debt or demand may be set against the other, and such matter may be given in evidence under the general issue, or pleaded in bar, as the nature of the case may require; so as at the time of pleading the general issue, where any debt or demand against the plaintiff or his testator or intestate is intended to be insisted on in evidence, notice shall be given of the particular sum or demand so intended to be given in evidence by way of offset, and upon what account it became due, or otherwise such matter shall not be allowed to be given in evidence on the general issue; and mutual debts and demands may be set against each other, either by being pleaded in bar, or given in evidence on the general issue, notwithstanding that such debts are deemed in law to be of a different nature, unless in cases where either of the said debts

Mutual demands pleaded in offset.

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shall

shall accrue by reason of a penalty contained in any bond or specialty, and in all cases where either the debt for which the action hath been brought, or shall be brought, or the debt intended to be set against the same, hath accrued, or shall accrue by reason of any such penalty, the debt intended to be set off shall be pleaded in bar, in which plea shall be shewn how much is truly and justly due on either side, and in case the plaintiff shall recover in any such action or suit, judgment shall be entered for no more than shall appear to be truly and justly due to the plaintiff, after one debt shall have been set against the other as aforesaid.

Provided always, That no demand shall be pleaded by way of offset, which was not justly due and accruing to the party pleading it at the time of the plaintiff's commencing his suit.

And be it further enacted, That where the defendant shall plead an account or demand in offset, unless he shall ten days before the sitting of the court where the same is pleaded, have served the adverse party with a copy of such account, or a particular statement of such demand, the plaintiff shall on motion, be entitled to one continuance of course that he may be prepared to defend against such account or demand. And demands in offset shall be so particularly described, that the other party may be prepared to defend.

And be it further enacted, That in either of the cases aforesaid, if it shall be found by the jury, who try the cause, that there is a balance due to the defendant, judgment shall be rendered for the defendant for such sum, or balance as they shall find due, and legal costs.

And be it further enacted, That when any demand shall be pleaded in bar, or given in evidence, by way of offset, in any action before a justice in which an offset is allowed; the justice may, in case he find a balance due to the defendant, give judgment therefor with costs, provided the same exceed not the sum of forty shillings, but in case the balance exceed the sum of forty shillings, he shall give judgment for costs only.

And be it further enacted, That in all cases where any persons have mutual executions against each other in their own rights, or where any person as executor

Plaintiff served with offset ten days before it is pleaded.

Judgment to be rendered for balance.

Offset before a justice.

Executions offset.

executor or administrator hath, or may have an execution against another, who hath or may have in his own right an execution against such executor or administrator, for a debt due from his testator or intestate, or where executors or administrators have execution against each other, for mutual demands between their testators or intestates, the sheriff, at the request of the creditor upon either execution, shall set off one execution against the other, which set off, if the sums be equal in such mutual executions, shall satisfy them both, and return thereof shall be so made by the sheriff; and where the sum contained in one of said mutual executions is greater than the other, the sheriff upon request as abovesaid shall set off and deduct the less from the greater, and shall return the execution for the less sum satisfied, and shall proceed to levy the balance on the other execution as directed in the writ, and in all cases where mutual executions shall be set off against each other this special matter shall be returned.

This act passed February 8, 1791.

AN ACT subjecting lands and tenements to the payment of debts, and directing the mode of levying executions on real and personal estate.

Passed Feb. 15, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That all lands and tenements belonging to any person in his own proper right in fee, shall stand charged with the payment of all just debts owing by such person, as well as his personal estate, and shall be liable to be taken in execution for satisfaction of the same, where the debtor, or his attorney, shall not expose to view, and tender to the creditor or officer, personal estate, sufficient to answer the sum mentioned in the execution with the charges.

Lands liable to be taken in execution.

And all executions duly served upon any lands and tenements, being returned into the clerk's office of the court out of which the same issued, and there recorded, shall make a good title to the party for whom they shall be so taken, his heirs and assigns forever.

Ex'ons levied on land to be recorded.

Provided nevertheless, That in case the said debtor

or

Redemption or debtors, their executors or administrators shall any time within one year from the return of any execution levied on real estate, into the clerk's office, from whence it issued, go to the creditor or creditors, their executors administrators or assigns, and tender and pay to them the full of the debt and charges mentioned in such execution, and the interest for such debt and charges from the time of the return of such execution into the clerk's office, as aforesaid, every such debtor or debtors, their heirs executors or administrators shall re-enter into such lands and tenements by due process of law, and be re-established in their former estate in such lands and tenements, as if such execution had never been levied upon the same.

Fraudulent sales void.

And be it further enacted, That when any person shall alienate any lands and tenements to him of right belonging, with intent, to defeat and defraud his creditors of their just debts, such conveyance not being made for good and valuable consideration, truly paid or secured to be paid, all such sales and alienations shall be deemed covenantous and fraudulent, and shall be of none effect to bar any person from recovering such debt as is to him owing.

Mode of levying on real estates,

And be it further enacted, That the manner of levying executions on real estate shall be as follows—The creditor shall deliver his execution to the sheriff of the county, or his deputy where the debtor's lands and tenements lie, who shall cause three appraisers to be chosen, one by the creditor or creditors, another by the debtor or debtors, if he or they so please, and the third by the sheriff; which appraisers shall be reputable freeholders and residents in such county.

And in all cases where the debtor shall on due notice, neglect or refuse to choose an appraiser, the officer shall appoint one for such debtor or debtors, and the said appraisers having taken their oaths before any justice of the peace, faithfully and impartially to appraise such lands and tenements as shall then be shewed them, as the estate of such debtor or debtors, shall appraise the same to satisfy the execution with the officer's fees, and set off such lands and tenements by metes and bounds, and the sheriff shall thereupon deliver possession and seizin thereof to such creditor or creditors,

creditors, or to his or their attorney, which being returned and recorded shall be a good title to such creditor or creditors, saving the equity of redemption as is by law provided.

And when it happens that lands and tenements cannot be divided and set out by metes and bounds as foresaid, then such sheriff shall extend such execution upon the rent of such lands and tenements, and give seizin thereof to such creditor or creditors, or his or their attornies, and shall cause the tenant or tenants thereof to attorn, and become tenant or tenants of such creditor or creditors, and to pay their rents to him or them accordingly, and upon refusal thereof to turn such tenant or tenants out of the possession thereof, and give livery, seizin and possession of the same to such creditor or creditors, to hold and enjoy such lands and tenements 'till such judgment, interest and fees be fully satisfied and paid, reserving thereout the widow's dower or thirds, if any be.

or on the
rents and
profits.

Provided always, That it shall and may be lawful for such debtor or debtors, or his or their agent or attorney, at any time or times before such judgment, interest and charges be fully satisfied, to tender and pay to such creditor or creditors the full of his debt, interest and charges, or such part thereof as may be due, and the said creditor is hereby obliged to accept the same, and surrender up to such debtor or debtors his agent or attorney such lands and tenements, and deliver up quiet and peaceable possession thereof; any law, usage or custom to the contrary notwithstanding.

And be it further enacted, That when any goods or chattels shall be taken to satisfy an execution issuing upon a judgment obtained, such goods or chattels shall be safely kept by the officer, at the expense of the debtor, for the space of four days next after they are taken; and if within that time the owner shall not redeem the same, by otherwise satisfying the execution, such goods and chattels shall be sold at public vendue to the highest bidder, having first been advertised, by the posting up of notifications of the time and place of sale, forty-eight hours before the expiration of the said four days, at two of the most public places in the town or place where the sale is to be; and the money arising upon such sale shall be applied

Mode of levying on personal estate.

to

to the paying of the charges, and to the satisfying of the execution, and the officer shall return the overplus (if any there be) to the debtor, and the officer who is possessed of the execution, shall make return of the same with his doings therein, particularly describing the goods taken and sold, and the sum for which each article was struck off; and if any officer shall be guilty of any fraud in the sale, or the return as before mentioned, he shall be liable to the debtor to pay him five times the sum defrauded, to be recovered by action on the case.

And be it further enacted, That when execution shall be levied on any estate for the purpose of satisfying such execution, and after the levying thereof it shall appear that such estate levied upon did not at the time of levying belong to the debtor, then and in every such case, upon the application of the creditor to the court or justice from whom such execution issued, such court or justice may order a writ of *scire facias* to issue against such debtor, requiring him to appear before said court or justice, and shew cause if any he have, why an alias execution should not issue against him for debt and costs, and if such debtor or being duly summoned, shall neglect to appear in obedience to such writ, or appearing shall not shew sufficient cause why an alias execution should not issue against him, the court or justice shall thereupon order an alias execution against such debtor for debt and costs, or if they think just, they may award execution for debt only; and in all cases they may if they think it just, add the fees of levying to the costs; and the doings by virtue of the former execution shall be considered as void and of no effect in law. But if it shall appear to the said court or justice, that the creditor had no just cause for such application, the debtor shall recover against the creditor double costs, and the court or justice shall award execution accordingly.

Provided nevertheless, That no application by any creditor shall be sustained, after the expiration of three years, from the time of extending and levying execution as aforesaid.

This act passed February 15, 1791.

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AN ACT directing the proceedings in case of forcible entry or detainer of lands or tenements.

Passed Feb. 16, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That two justices of the peace, *quorum unus*, shall have authority to inquire by a jury, of any forcible and unlawful entry into lands or tenements, or forcible detaining the same, and also of any forcible and unlawful detaining and holding any lands and tenements where the entry was lawful; and such forcible entry and detainer, or forcible detainer being found by the verdict of the jury, the said justices may fine the party guilty of such forcible entry or detainer, to the use of the county, in a sum not exceeding four pounds, and shall and may award restitution of the premises so forcibly entered upon or detained, without any inquiry into the merits of the title of either party.

Two justices to try causes of forcible entry & detainer.

And be it further enacted, That when any complaint shall be made in writing to any two justices of the peace, *quorum unus*, of any such unlawful and forcible entry or detainer, they shall issue a warrant in this act prescribed, directed to the sheriff of the same county or his deputy, commanding him to apprehend the person against whom such complaint shall be made, and to bring him before the said justices at a day in such warrant named, and at a place therein mentioned; and they shall also issue a precept to the said sheriff or his deputy, commanding him to cause to come before them, twelve men having the qualifications by law required of petit jurors serving at the superior court, at a certain time and place in such precept to be mentioned, and at the said time and place appointed for trial or hearing the said complaint, if a sufficient number of jurors summoned by the sheriff do not attend, the said justices may order the sheriff to complete the number by returning others forthwith, and the jury being empannelled, shall be sworn, well and truly to try the forcible entry or the forcible detainer complained of, according to their evidence, and to return a true verdict thereof; and if the jury after full hearing find the person against whom the complaint is made, guilty of the forcible entry or detainer complained of, they shall all sign their verdict, and the said justices shall enter up judgment for the complainant

Mode of process.

plainant to have restitution of the premises, and shall impose such fine, not exceeding four pounds, as they, considering all the circumstances may think just, and shall tax cost for the complainant, and may commit the person against whom the judgment is so made until the fine be paid, and the said justices shall also award their writ of restitution in the form in this act prescribed, and there shall be no appeal from the judgment of the said justices; but if the jury find that the person complained against is not guilty, the complaint in their opinion not being supported, the said justices shall tax cost for the said person complained against, and shall issue execution accordingly.

Sheriff to leave a copy of the warrant where he cannot apprehend.

And be it further enacted, That if the sheriff or his deputy cannot find the party against whom the said warrant issued, he may four days before the time appointed for returning the same, leave an attested copy of said warrant at the usual place of the abode of such person, and if at the return of his warrant he shall not have been able to find or apprehend the person against whom the same warrant issued, he shall make return of such facts, and that he hath so left an attested copy, and when the same was done; and if the said party doth not appear at the time appointed for hearing the said complaint, the said justices may proceed to the hearing in the same manner as though such absent party was present, except that they shall not in this case inflict any fine upon him, and in all cases they may in their writ of restitution order the cost taxed, to be levied: But in every such case, if the jury do not find for the complainant there shall be no cost taxed for the party complained against, he not having appeared at the empannelling of the jury.

Process may be removed to superior court

And be it further enacted, That the proceedings before the said justices may be removed by certiorari unto the superior court to be holden in the same county, and if irregular, may be there quashed.

no bar to another action

And be it further enacted, That any judgment of the said two justices shall not be a bar to any after action brought by either party.

not to extend to persons who have been in possession three years.

And be it further enacted, That this act shall not extend to any person who hath had the occupation or been in the quiet possession of any lands or tenements by the space of three whole years together next,

next before, and whose estate therein is not ended or determined.

And be it further enacted, That each juror shall be allowed the same for his travel, as is allowed to jurors for travel at the superior court, and two shillings for the verdict, to be paid by the complainant. Fees:

The justices shall have six shillings each for the trial, two pence per mile for the travel out and in, and the parties, witnesses and sheriff shall be allowed for the service of the warrants, summonses, travel and attendance, the same as in other cases.

And be it further enacted, That the warrant for apprehending the party complained against, the precept to the sheriff for returning jurors, the oath to be administered to the jurors, their verdict, and the writ of restitution shall be made out, issued, administered and drawn up in the forms following, namely, Forms of the process.

THE WARRANT.

State of New-Hampshire, } *To the sheriff of said county*
Is. } *of or his deputy,*
Greeting.

WHEREAS A. B. of &c. addition hath exhibited unto us E. F. and G. H. justices of the peace in and for the county of aforesaid, *unus quorum,* a complaint against C. D. of &c. addition setting forth that (*here the substance of the complaint shall be inserted*) Therefore we command you in the name of the State of New-Hampshire, to apprehend the said C. D. (if he may be found within your precinct) and bring him before us at on the day of at of the clock in the noon, then and there to make answer to, and defend against the complaint aforesaid, and further to be dealt with according to law; but if the said C. D. is not to be found within your precinct, you are required to leave an attested copy of this warrant at the usual place of the abode of the said C. D. four days at least before the said day of and make return of this warrant with your doings thereon, unto us at aforesaid, on the said day of dated at the day of Anno Domini,

E. F. } *Justices of the peace,*
 G. H. } *quorum unus.*

R

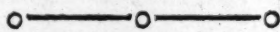
PRECEPT

PRECEPT FOR JURORS.

State of New-Hampshire, } To the sheriff of said county
 fs. } of or his deputy,
 Greeting.

WE command you in the name of the State of New-Hampshire, to cause to come before us at on the day of at o'clock in the noon, twelve men, having the qualifications by law required of petit-jurors serving at the superior court, to try the truth of a complaint exhibited to us E. F. and G. H. two of the justices of the peace in and for said county of quorum unus, by A. B. of &c. addition against one C. D. of &c. addition for a forcible entry or detainer (*as the case may be*) and make return of this writ, with your doings thereon, unto us at on the day of aforesaid, dated at the day of Anno Domini,

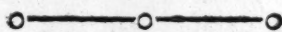
E. F. } Justices of the peace,
 G. H. } unus quorum.



JURORS OATH.

YOU solemnly swear, that you will well and truly try the truth of the complaint of A. B. exhibited to you against C. D. according to the evidence given you, and return a true verdict thereof.

So help you GOD.



THE VERDICT.

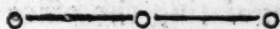
fs. AT a court of inquiry held at on the day of Anno Domini before E. F. and G. H. two of the justices of the peace in and for the county of aforesaid, quorum unus.

A. B. of &c. addition complainant against C. D. of &c. addition respondent.

THE jury find that the facts alleged in the said A. B.'s complaint are true, that the said C. D. is guilty thereof, and that the said A. B. ought to have restitution of the premises therein described without delay—(Or in case the jury conceive the allegations of the complainant are not supported, then)—The jury find that

that the facts contained in the said A. B's complaint not being fully proved, the said C. D. is not guilty.

_____	_____	} Foreman.
_____	_____	
_____	_____	} Jurors.
_____	_____	
_____	_____	
_____	_____	
_____	_____	
_____	_____	
_____	_____	
_____	_____	



WRIT OF RESTITUTION.

ss. STATE OF NEW-HAMPSHIRE.
 L.S. To the Sheriff of the county of _____ aforesaid,
 or his deputy, Greeting.

WHEREAS A. B. of addition at a court of inquiry of forcible entry and detainer, holden at _____ in our said county of _____ upon the _____ day of _____ in the year of our Lord _____ before E. F. and G. H. two justices of the peace for our said county of _____ quorum _____, by the consideration of said justices recovered judgment against C. D, of addition to have restitution of (here describe the premises as in the complaint.)

We therefore command you, that, taking with you the force of the county, if necessary, you cause the said C. D. to be immediately removed from the premises, and the said A. B. to have peaceable restitution of the same :—We also command you, that of the goods, chattels or lands of the said C. D. within your precinct, you cause to be paid and satisfied unto the said A. B. at the value thereof in money, the sum of _____

being the cost taxed against the said C. D. for the said A. B. at the court aforesaid, together with one shilling and four pence more for this writ, and thereof also to satisfy yourself for your own fees, and for want of goods, chattels or lands of the said C. D. to be by him shewn unto you, or found within your precinct, to the acceptance of the said A. B. to satisfy

fy the sums aforesaid ; we command you to take the body of the said C. D. and him commit to either of the gaols in our said county of and detain in your custody, within said gaol, until he pay the full sums aforesaid, with your fees, or until he be discharged by the said A. B. or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said justices within twenty days next from the date hereof. Witness E. F. and G. H. aforesaid, at the day of Anno Domini,

This act passed February 16, 1791.

Passed June
10, 1791.

AN ACT regulating the office of coroner.

BE it enacted by the Senate and House of Representatives in General Court convened, That every coroner before he enters upon the duties of his office, shall be sworn to the faithful discharge thereof, and shall give security in the same manner as sheriffs by law are obliged to do.

Coroners to
be sworn and
to give bonds

to take in-
quests

And be it further enacted, That it shall be the duty of the coroner to take inquests of the violent deaths committed, or casual deaths happening within the county for which he is commissioned.

serve writs.

And be it further enacted, That it shall be the duty of the coroner, and he hereby is empowered to serve and execute all writs and processess directed unto him when the sheriff is a party ; and the coroner shall return jurors *de talibus circumstantibus* where the sheriff is a party interested, or related to either party, and in all such causes the coroner shall attend the jury and shall have for all services enjoined on him in this section, the same fees by law allowed to the sheriff for similar services.

Mode of ta-
king an in-
quest.

And be it further enacted, That when any coroner shall be certified of the dead body of any person supposed to have come to his death by violence or casualty, found or lying within his county, he shall cause a jury of inquest to be summoned to appear before him at a certain time and place, to inquire how and in what manner the person so found dead, came to his death,

And

And the number of jurors to be summoned shall be eighteen in all, and they shall have the qualifications of petit jurors attending the courts of common law, and shall be inhabitants of the town or place where the dead body is found, or of that and the adjacent towns as the coroner may order.

And the warrant or warrants for summoning them shall be directed to a constable of the town or place from which such jurors are to be summoned, and in such warrant shall be specified the number of jurors to be summoned in such town or place; and the constable to whom any such warrant is directed and delivered, is hereby empowered and directed forthwith to execute the same, and to repair to the place where the dead body is, at the time mentioned, and make return of the warrant, with his doings thereon, unto the coroner who issued the same.

And twelve or more of the jurors returned shall be sworn in view of the body, and the coroner shall give them a charge upon their oaths, to declare of the death of the person, whether he died of felony, or of mischance, or accident; and if of felony, whether of his own or of another; and if of the felony of another, who were principals, and who were accessories; with what instrument he was struck or wounded, and so of all prevailing circumstances that may come by presumption; and if he died of his own felony, then to inquire of the manner, means or instrument, and of all circumstances concerning it; and if he died by mischance or accident, whether by the act of man, and whether by hurt, fall, stroke, drowning or otherwise; to inquire of the persons who were present, the finders of the body, his relations and neighbours, whether he was killed in the same place where he was found, and if elsewhere, by whom and how he was brought from thence, and of all circumstances relating to the said death.

And the jury being charged, shall stand together; and the coroner shall cause proclamation to be made for all persons, who can give evidence how, and in what manner the person, then and there lying dead, came to his death, to draw near and they shall be heard.

And every coroner is further empowered to summon, and if necessary to grant compulsory process for

And

for the appearance of witnesses, and to administer an oath to such witnesses ; and the testimony of such witnesses shall be drawn up in writing and subscribed by them, and if the testimony of any witness or witnesses charge any person with killing, or of being in any way instrumental to the death of the person found dead, the coroner shall bind such witnesses by recognizance, in a reasonable sum, for their personal appearance at the next superior court of judicature to be holden within and for the same county, there to give evidence accordingly ; and if any such witness shall refuse to recognize as aforesaid, the coroner shall and may commit such witness to the common gaol of the county.

And the jury having viewed the body, heard the evidence, and made all the inquiry within their power, they shall draw up and deliver unto the coroner their verdict upon the death under consideration, in writing under their hands, and the coroner shall seal his hand and seal thereto.

And the coroner shall return to the next superior court of judicature holden in the same county, the inquisition, written evidence and recognizance (if any) by him taken.

Penalty on constable.

And be it further enacted, That if any constable shall unnecessarily fail of executing any warrant directed and delivered to him as aforesaid, or of returning the same as aforesaid, he shall forfeit the sum of forty shillings.

Penalty on jurors.

And every person summoned as a juror as aforesaid that shall without reasonable excuse therefor, fail of appearance, he shall forfeit the sum of forty shillings. And the forfeitures aforesaid shall be recovered by action of debt, before any justice of the peace in the county where the same shall accrue, and shall be one half to the use of the prosecutor, and the other half to the use of the county.

Coroner to notify a justice.

And be it further enacted, That upon an inquisition found before any coroner, of the death of any person by the felony or misfortune of another, he shall speedily inform one or more of the justices of the same county thereof, to the intent that the person killing, or being any way instrumental to the death may be apprehended, examined and secured in order for trial.

And

And be it further enacted, That the following forms shall be used in the cases to which they apply. Forms of process.

○—○—○—○

Warrant for summoning the jury of inquest.
 L. s. R. } To either of the constables of L
 } in said county of R

Greeting.

IN the name of the State of New-Hampshire, you are hereby required to summon good and lawful men of said to appear before me one of the coroners of R at the dwelling house of (or at a place called) within the said town of L at of the clock in the noon, then and there to inquire upon a view of the body of there lying dead, how and in what manner he came to his death. Fail not herein at your peril. Given under my hand and seal at L in said county the day of A. D.

A. B—.

○—○—○—○

Form of the oath to be administered to the jurors.

YOU solemnly swear, that you will diligently inquire, and due presentment make, in behalf of this State, how, and in what manner who lies here dead, came to his death; and that you will deliver to me one of the coroners of this county, a true inquest thereof, according to such evidence as shall be laid before you, and according to your knowledge.
 So help you GOD.

○—○—○—○

Form of the oath to be administered to the witnesses.

YOU solemnly swear, that the testimony which you shall give to this inquest, concerning the death here lying dead, shall be the whole truth, and nothing but the truth.
 So help you GOD.

○—○—○—○

Form of the inquisition.

State of New-Hampshire, } AN inquisition taken at L
 R } within the said county of R the day of in the year of our Lord before A. B. gentleman, one of the coroners of the said county of R upon the view of the body of there lying dead, by the oaths of good and lawful men, who being sworn and charged to

And

to inquire for the said State, when, how, and by what means the said came to his death, upon their oaths, do say *(then insert how, where, when, and by what means, with what instrument he was killed, and if it appears that he was murdered by a person known to the jury, then the inquisition shall be concluded thus)* "and so the jurors aforesaid, upon their oaths aforesaid, do say that the said in manner and form aforesaid the aforesaid then and there of his malice aforethought, did kill and murder, against the peace and dignity of this State, and the laws of the same."

If it appears to be self murder, then the inquisition shall conclude thus :

"And so the jurors aforesaid, upon their oaths aforesaid, do say, that the said in manner and form aforesaid, then and there voluntarily, and feloniously, as a felon of himself, did kill and murder himself, against the peace and dignity of said State."

(If it appears that the death was by misfortune, the inquisition must conclude thus :)

"And so the jurors aforesaid, upon their oaths aforesaid, do say, that the said in manner aforesaid came to his death by misfortune."

(If the death was occasioned innocently by the hands of any other person, the inquisition must conclude thus :)

The jurors aforesaid, upon their oaths aforesaid, do say that the aforesaid D. H. the aforesaid misfortune and contrary to the will of the said D. H. in manner and form aforesaid, did kill and slay.

In witness whereof, the said jurors have hereunto set their hands, the day and year abovesaid.

L. M.
N. O, &

In witness of all before written, the said coroner hath hereunto set his hand and seal the same day and year.

A. B.

Seal

This act passed June 10, 1791.

AN ACT regulating prisons.

Passed Feb.
10, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That every gaoler or prison-keeper shall at the opening of the superior court of judicature and court of general sessions of the peace, respectively, return a list and certify to such courts, respectively, the names of all prisoners then in his custody, with the cause of their commitment, and also the names of all prisoners that shall be committed during the sitting of any such court, that the said courts respectively may take cognizance thereof, and may proceed to make deliverance of such prisoners according to law, for the crimes proper to the jurisdiction of the same courts respectively; and every gaoler who shall neglect his duty herein, shall forfeit such sum as shall be set upon him by the court, not exceeding ten pounds.

Gaolers to
return list of
prisoners.

And be it further enacted, That if any person shall directly or indirectly, by any ways or means, convey any tool, instrument or other thing to any prisoner, into any prison, whereby such prisoner might break prison, or work him or herself unlawfully out of the same; every person so offending shall forfeit and pay such fine as by the discretion of the court shall be imposed, not exceeding twenty pounds, or suffer corporal punishment by whipping, not exceeding twenty stripes.

Penalty for
assisting pri-
soners to
escape.

And if it shall happen that any prisoner doth make his or her escape, by means of any tool, instrument or other thing conveyed by any person as aforesaid, if any person shall in any other way assist any prisoner to escape, who by means thereof doth escape, every person so conveying tools, instruments or other things, or the person so assisting, in case such prisoner escaping were committed for debt, shall be liable to pay the full debt to the creditor or creditors at whose suit such prisoner stood committed; and in case such prisoner were committed for any crime, the person so assisting shall suffer the same punishment which the prisoner was sentenced to suffer; or in case the escape happen before conviction, the same

punishment

S

Seal

punishment which the prisoner would have suffered in case of conviction of the crime for which he stood committed; and in either case the person so furnishing tools, instruments or other things as aforesaid, or otherwise assisting as aforesaid, shall at the discretion of the court be fined a sum not exceeding five hundred pounds, or be corporally punished by whipping not exceeding thirty-nine stripes, and find sureties for the good behavior during the space of one year at the discretion of the court, upon considering all the circumstances attending such escape. But in case such prisoner were, or would have been liable to capital punishment, then the person so furnishing tools or otherwise assisting, shall be fined, imprisoned or be in the pillory, or any one or more of the said punishments as the court shall think proper to inflict.

And be it further enacted, That every gaoler, or prison-keeper, that shall voluntarily suffer any prisoner committed unto him, to escape, shall suffer the like pains and penalties as the prisoner so escaping, should by law, for the crime or crimes whereof he was convicted, or of which he stood charged, if he had been convicted thereof. And in case such prisoner were committed for debt, such gaoler or prison-keeper shall be liable to pay the debt to the creditor, and may at the discretion of the court be fined in a sum not exceeding one hundred pounds.

Penalty for
voluntary escapes,

for negligent
escapes.

And if any gaoler or prison-keeper shall through negligence suffer any prisoner to escape, such gaoler or prison-keeper shall, in case the prisoner were committed for any crime, pay such fine as the justices of the court shall inflict, according to the nature of the offence for which the escaped prisoner stood convicted, not exceeding one hundred pounds.

And in case such prisoner were committed for debt, such gaoler or prison-keeper shall be liable to pay the creditor the full amount of his debt, and be further liable to be fined at the discretion of the court, not exceeding fifty pounds.

Prisoners escaping may
be recommit-
ted.

And be it further enacted, That if any person furnish tools, instruments or other things to any prisoner, or otherwise assisting any prisoner charged or convicted of any offence to escape, or if any gaoler or prison-keeper, who shall voluntarily or negligently

suffer

Any person who shall suffer any such prisoner to escape, shall within six months next after such escape, recover such prisoner and return him back to prison again, then such person so assisting, and such gaoler or prison-keeper so voluntarily or negligently permitting such person to escape, shall be liable only to such fine as the court may inflict.

All fines and forfeitures arising by this act, shall be paid to the county treasurer.

Fines how disposed of.

And be it further enacted, That in all cases where the sheriff, gaoler, prison-keeper, or other person, shall have been compelled to pay any sum or sums of money on account of any prisoner's escape, he or they shall be entitled to his, or their remedy against such prisoner.

Prisoners escaping liable

And be it further enacted, That the court of general sessions of the peace shall have the care of building, inspecting and repairing all prisons, court-houses and other necessary edifices for the use of the county, and shall at the beginning of every term inquire into the state of the prisons in their respective counties, with respect to the security of such prisons from escape, the condition and accommodation of the prisoners, and shall from time to time take care to secure them from escape, sickness and infection.

Sessions to build and repair gaols.

And be it further enacted, That in case of the escape of any prisoner committed for debt, through the insufficiency of the gaol or prison in any county, the sheriff shall stand chargeable to the creditor or person to whose use any forfeiture was adjudged, or any damages or costs awarded against such prisoner, for the full amount of such damages and costs, and shall have his remedy against the county on application to the court of general sessions of the peace in the same county, and if said court shall not cause payment to be made to the sheriff within six months after the application made, such sheriff shall then, and not before be at liberty to bring his action against the inhabitants of the same county, to be heard and tried in that or an adjoining county, at his election; an attested copy of the writ being left thirty days before the time of trial, by any coroner of the county against whom the action is brought, shall be sufficient notice of the suit, and the justices of the court of general sessions of the

County liable for escapes thro' the insufficiency of the gaol.

peace

peace shall have full power to appoint an agent or agents to appear and defend such action, and when no court of general sessions of the peace shall have been holden in the county against which the action is brought, after the service of the writ, the court shall order the action to be continued to the next term, and until a court of general sessions of the peace shall have been holden in the same county, and all advantages shall be saved to the defendants in the same manner as though they had appeared at the first term, and if judgment be given against such county, the jury may give such sum in damages in addition to the sums actually paid by such sheriff to the creditor or creditors as they may think reasonable, as a compensation for his trouble in the same suit, besides costs, and execution may be levied on the estate of any of the inhabitants of such county. And the person upon whose estate such execution is levied, may thereupon have an action against the county; the writ to be served and the action prosecuted in the same way and manner, as the action brought by the sheriff as before mentioned, to recover the monies so levied, and shall have in case of recovery double costs of suit.

Keeper to
supply the
prisoners.

And be it further enacted, That the prison-keeper shall furnish and provide each prisoner committed for debt, or for any crime, diet and sustenance such as the justices of the sessions may order, for which the prisoner if he be committed for debt, before he be discharged, shall pay at the rate of five shillings per week, or such sum as the court of general sessions of the peace shall order, and in case the prisoner be committed for any crime, three shillings per week, or such sum as the said court shall order, and the prison-keeper shall furnish them with diet in that proportion as to quality.

Penalty for
defrauding
prisoners.

And be it further enacted, That if any prison-keeper shall defraud the prisoners of their allowance, or shall not afford them sustenance and accommodations equal to what such prison-keeper is paid therefor, any court on complaint of the prisoner and proof sufficient, shall and may amerce such prison-keeper in such sum as they may think just and reasonable, considering the nature and aggravation of his offence, not exceeding for one offence, five pounds.

And

And be it further enacted, That no person convicted and sentenced for theft, shall be held in prison on account of restitution or damage awarded to the party injured, for more than thirty days, after such judgment or sentence given, unless such person to whom such restitution or damage is awarded as aforesaid, will pay and satisfy the prison-keeper his charge for keeping such prisoner, both for the time past and future; and if the person to whom such damage or restitution is awarded shall neglect or refuse so to do, the prison-keeper shall discharge the prisoner, and in every such case the prisoner shall pay his own fees and charges, and if he be unable, then any two justices of the peace, *quorum unus*, may order and enjoin the prisoner to make satisfaction for the same, by service for such reasonable time as they shall assign; and the prison-keeper may dispose of him in service to any subject of the United States for such time.

Thief not to be detained after 30 days for three fold damage

And be it further enacted, That if any suit be commenced or prosecuted against the keeper of the prison, for any thing done by him, pursuant to this act, he may plead the general issue, and may give this act and the special matter in evidence, and the keeper in case the prosecutor become non-suit, or verdict pass against the prosecutor, shall recover double costs.

And be it further enacted, That the plaintiff in every civil action, in case he be an inhabitant of this state, and of sufficient ability, otherwise the endorser of the original writ shall pay to the prison-keeper his legal demand for prison charges, of any prisoner committed on mesne process, in case the prisoner be unable to pay the same, for so long time as such prisoner shall have been held in prison upon such process, no further prosecution being had thereon to a judgment in law.

Plaintiff or endorser liable for prison charges.

This act passed February 10, 1791.

AN ACT to enable the justices of the inferior court of common pleas to fix and determine the boundaries of the gaol yards in their respective counties.

BE it enacted by the Senate and House of Representatives in General Court convened, That the justices

Passed Feb. 14, 1791.

Justices of
common
pleas to limit
the gaol
yards,

tices of the inferior court of common pleas, shall, as soon as may be after the publication of this act, fix and determine the boundaries of the gaol yards appertaining to the several gaols in their respective counties, and extend the bounds and limits of the several gaol yards, as far as the local situation of the gaols, and the convenience and accommodation of the prisoners require; Provided said yards shall not in any case extend more than two hundred rods each way from said gaols, and at all times that the determination of the inferior court be subject to the control of the justices of the superior court of judicature.

This act passed February 14, 1791.

Passed Feb.
15, 1791.

Prisoners for
debt to have
liberty of the
yard,

giving bond.

AN ACT for the ease and relief of persons imprisoned for debt.

BE it enacted by the Senate and House of Representatives in General Court convened, That any person imprisoned on mesne process in any civil action, or upon execution founded on a proper action of debt, covenant, contract or promise, shall be permitted and allowed to have a chamber and lodging in any of the houses or apartments belonging to such prison, and liberty of the yard thereto belonging; but not to pass without the limits of the prison yard, upon reasonable payment to be made for chamber room to the prison-keeper, not exceeding one shilling per week, such prisoner giving bond to the creditor with two sufficient sureties, being freeholders in this State, to be bound jointly and severally in double the sum for which such prisoner is imprisoned, with condition in the same bond underwritten, in the form following, namely "the condition of the above obligation is such, that if the above bounden—now prisoner—in the gaol in—at the suit of—do and shall from henceforth continue a true prisoner in the custody, guard, and safe keeping of—keeper of the said prison, or in the custody, guard and safe keeping of his deputy, officer, steward, or some one of them within the limits of said prison, as by law established, until he shall be lawfully discharged without committing any escape until such discharge—then this obligation to be void, or else to abide in full

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full force and virtue :” And the blanks in said con
dition shall be filled up as the respective cases may
require. And if the sureties be not approved by the
creditor, his agent or attorney, who prosecutes, or
who prosecuted the said action, then any two justices
of the superior court, court of common pleas, or a
justice of the superior court, with a justice of the
court of common pleas, or either of said justices,
with a justice of the peace, who are disinterested,
approving thereof and certifying such their appro
bation on the back of said bond, shall be deemed
sufficient ; and shall remain with the sheriff or gaol-
keeper till the creditor demand the same, when
it shall be given up to him, and the sheriff or gaol-
keeper shall not be liable to any action, for any es
cape of any such prisoner after the executing of such
bond. And on condition broken, the said creditor
may put the said bond in suit, and shall be entitled to
recover his just debt, damages and costs for which
such prisoner was committed, together with prison
charges, and shall be allowed ten per cent interest
from the time of commitment, and the said court shall
cancel the said bond accordingly. *Provided always,*
That when any person shall be committed on mesne
process or execution, founded on any such prison
bond, he shall remain in close gaol or prison in the
same manner as though this act had not been made.
And on all executions issuing on any prison bond, a
minute that such execution issues on a prison bond,
shall be made on the back thereof for the direction of
the gaol-keeper.

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And be it further enacted, That when any person
committed on execution recovered on proper action
of debt, covenant, contract or promise, shall not have
at the time of his commitment, or at any time af
terwards, estate to the value of ten pounds, such per
son may, at the expiration of thirty days from the
time of commitment, apply to any two justices of
the superior court of judicature, or any two justices
of the court of common pleas, in the county where
any such person is committed, or one of the justices
of the said superior court, and one of the justices of said
court of common pleas, or to either of said courts
while sitting in the same town where such prisoner is
committed

Prisoners for
debt admit
ted to their
oath.

committed, and pray to be admitted to take the oath herein after prescribed. And such court or justice applied to shall notify in writing the creditor, if within this State, or the attorney who appeared in the cause, in case the creditor live more than forty miles from the prison, or out of the State, or in case the creditor's living out of this State, his agent or factor, of the application made to them as aforesaid, and of the time when and place where they will attend to administer the oath prescribed, to such debtor; giving reasonable time for attendance of the party notified, and such notice being given or left in writing at the place of abode of the party so to be notified, a reasonable time before the time ordered for such caption, if the creditor can make it appear to the satisfaction of said justices, that the prisoner hath practised fraud, deceit or falshood in the management of his estate, real or personal, to take advantage of this act, he shall not be admitted to swear, but if no sufficient objection is made by the creditor or some other person, the said justices shall administer the following oath to the debtor, namely,

I solemnly swear, that I am not the owner of any real or personal estate, either in possession, remainder or reversion, or in possession of any person or persons for me, of the value of ten pounds lawful money, exclusive of one necessary suit of apparel, at any just and reasonable valuation, nor have I since the commencement of the action, whereon the execution, by virtue of which I am imprisoned issued, any way embezzled, destroyed, concealed or transferred any such estate with a view of defrauding any of my creditors, or changed possession of the same for that purpose, or for any advantage to myself, or any depending on me for support, nor any way done any thing like it, either directly or indirectly. And, I also add, that I have not at any time, with a view and design of injuring, defrauding or delaying payment of my debts done any of the matters or things herein before mentioned, by any way or means whatever.

So help me God.

Which oath shall be repeated by the person who takes it. And the justices administering said oath shall certify

justify their proceedings to the keeper of the gaol in the following manner, namely,

of the gaol at To keeper
 at on the day of
 A. R. a prisoner in your custody for debt,
 at the suit of C. D. of, &c. took the oath prescribed
 in an act, for the ease and relief of persons imprisoned
 for debt, the said C. D. having been duly notified
 (did or did not attend) and in our opinion the said
 A. R. ought to be discharged.

E. F. } Addition.
 H. I. }

And thereupon the said debtor satisfying the pri-
 son-keeper for past charges, shall be discharged, unless
 the creditor or some person for him pay the prison-
 keeper, weekly, five shillings lawful money per
 week, for the support and maintenance of such debt-
 or, and on default or neglect of paying for one week,
 or satisfying the prison-keeper therefor, the prison-
 keeper shall discharge the prisoner.

And be it further enacted, That all and every judg-
 ment obtained against any such prisoner, shall not-
 withstanding such discharge as aforesaid, be and re-
 main good and effectual in law, to all intents and pur-
 poses against any estate whatsoever, which may then,
 or at any time afterwards belong unto any such prison-
 er, and a new execution may issue at any time against
 the goods, chattels, lands and tenements of such prison-
 er, in the same way and manner, as might have been
 done if the prisoner had never been in execution;
 and the said debtor's estate shall also be liable to pay
 prison charges during all the time of his imprisonment.

their estates
 liable not-
 withstand-
 ing their dis-
 charge from
 prison.

This act passed February 15, 1791.

AN ACT in addition of an act, intituled, "An act for Approved
 the ease and relief of prisoners imprisoned for debt," June 13.
 passed February 15th, 1791. 1796.

BE it enacted by the Senate and House of Representa- Prisoners
 tives in General Court convened, That when any may be ad-
 person now committed, or who hereafter may be com- mitted to
 mitted to prison upon any writ of execution issued their oath.
 upon a judgment rendered upon any plea of the case,
 trespass

trespass, ejectment, trover or trespass on the case, shall have remained a prisoner for and during the term of thirty days, the justices of the superior court of judicature, or courts of common pleas in each county respectively, upon petition of the prisoner, and notice given to the creditor, as in and by said act is required in other cases, may, if in their opinion the public good will admit of it, administer the same oath, and extend the same benefits and privileges to said prisoners, as in and by said act is extended to prisoners for debt. And the said creditors shall have like remedy against any estate of said prisoners so liberated, as in and by said act is prescribed in other cases.

County liable to pay prison charges in certain cases.

And be it further enacted, That when in the opinion of either of the courts aforesaid, upon examination had in the county where such prisoner is, or may be committed, the public good will not admit of the liberating or enlargement of such prisoner, and such prisoner may be unable to pay his prison charges, that then and in every such case the county where such prisoner may be committed, shall be liable to pay the same, and the courts of common pleas in each county respectively are hereby empowered to examine all such accounts for prison charges, and allow so much as to them may appear just, not exceeding one dollar per week, and to raise the same as other county taxes are raised.

Approved June 13, 1796.

Passed Jan. 14, 1790.

Sheriffs to receive and keep all prisoners committed under the authority of the United States.

AN ACT to provide for the safe keeping in the public gaols in this State, prisoners committed under the authority of the United States.

BE it enacted by the Senate and House of Representatives in General Court convened, That the sheriffs of the several and respective counties in this State, be and they hereby are required to receive and safe keep in the public gaols in their respective counties, all prisoners committed under the authority of the United States, until they shall be discharged by due course of the laws thereof: And the said sheriffs shall be subjected to the like pains and penalties for neglect of duty herein, as they now are by law in the case

case of prisoners committed under the authority of this State.

Provided, The United States pay to the said sheriff for the use and keeping of said gaol at the rate of three shillings per month, for each prisoner that shall under their authority be committed thereto, during the time such prisoner shall be therein confined, and also support such of said prisoners as may be committed for offences: And also pay to the keeper of such gaol the customary fees for committing and discharging prisoners.

U. States to pay for each prisoner.

And be it further enacted, That the said sheriffs shall at the end of every six months from the passing of this act, render an account and pay to the treasurer of the county of which such sheriff may be keeper of the gaol, all monies he shall have received from the United States for the use and keeping of such gaols as aforesaid, excepting the customary fees for committing and discharging prisoners as aforesaid.

Sheriffs to render an account.

Provided always, That nothing in this act contained, shall be construed to give the United States any remedy against this State, or any county thereof, for the escape of any prisoners committed under the authority of the United States.

The State or county not liable for escapes.

This act passed January 14, 1790.

AN ACT prescribing the duty and regulating the office of sheriff.

Passed Feb. 8, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That the sheriff of each county in this State shall have power to appoint a deputy or deputies under him, for whose conduct in office he shall be accountable, and shall, by himself or deputy, serve and execute within his county, all writs and precepts to him directed, issuing from lawful authority.

Sheriff may appoint deputies and serve writs.

And be it further enacted, That the sheriff of each county shall have the custody, rule, keeping and charge of the gaol or gaols in his county, and prisoners therein, and shall keep the same either by himself or his deputy, for whom he shall be answerable, and shall give sufficient security, in a sum not exceeding

Sheriff to keep the gaols,

must give bonds.

ing three thousand pounds, nor less than one thousand pounds, to the acceptance of the justices of the court of common pleas, in the same county, to the treasurer of this State for the time being, for the faithful performance of the duties of his office, in all parts thereof. And no sheriff hereafter to be appointed shall be considered as qualified to perform the duties of his office, until he shall have given such security as aforesaid.

Penalty for neglecting to serve a precept.

And be it further enacted, That if any sheriff, deputy sheriff or constable shall neglect to serve any precept issuing from lawful authority, directed unto such sheriff, deputy sheriff or constable, and delivered unto him to serve and execute, having in all civil causes tendered unto him his legal fees for serving and executing the same, every such sheriff, deputy sheriff or constable shall forfeit and pay the sum of ten pounds to any person who will sue for the same, or in case of neglect of any person to sue therefor, within three months after such default or neglect of duty of such sheriff, deputy sheriff or constable, then the same may be recovered by indictment, at any time within one year then afterwards—in which case the whole fine or forfeiture before-mentioned shall be for the use of the county.

Sheriff, &c. may require aid.

And be it further enacted, That every sheriff, deputy sheriff or other officer, in the execution of his office, for the preservation of the peace, or for apprehending or securing any person or persons for violating the same, or for any other criminal matter or cause, be, and hereby are empowered to require suitable aid and assistance in the execution of his said office; and if any person when so required shall neglect or refuse to give such aid and assistance, such person on conviction thereof, before any justice of the peace, shall be fined to the use of the town where the offence is committed, a sum not exceeding forty shillings, and if unable to pay, shall be set in the stocks not exceeding four hours.

Penalty for assuming the office.

And be it further enacted, That if any person not being a sheriff, deputy sheriff or other officer, who by duty it is to keep the peace, or apprehend persons for violating the same, shall falsely pretend to be any of either of said officers, and shall presume to act as such

or

to require any other person or persons to aid or assist him in any matter or thing belonging to the duty of a sheriff, deputy sheriff or other such officer so assumed as aforesaid, he shall upon conviction for any such offence, forfeit and pay a fine not exceeding one hundred pounds, according to the nature and circumstances of his offence, at the discretion of the court before whom the conviction shall be, one moiety of which fine shall be to the use of the county in which the offence is committed, and the other moiety to him or them who will sue for the same in any court of common pleas.

And be it further enacted, That the sheriffs of the respective counties in this State, shall be accountable to the treasurer of this State, and the treasurers of the respective counties for all fines and forfeitures, imposed by the court of general sessions of the peace, and the superior court of judicature, accruing to the said State; and the several counties respectively, and the said sheriff shall immediately on the receipt of such fine or forfeiture, or immediately upon his voluntarily, or negligently permitting any prisoner on whom the same was set or imposed to escape, pay the same, when for the use of said State, to the treasurer thereof, and when for the use of any county, to the treasurer thereof; and upon his neglect, or refusal so to do, he shall forfeit and pay treble the amount of such fine or forfeiture, on action brought by the treasurer, to whom the same was payable, with double costs of suit, and such neglect of payment, notwithstanding such recovery by action, shall be considered as a good ground of removal of such sheriff from office. And the clerks of the respective courts shall, immediately upon the rising of each of the said courts, make out a list, and attest the same, of all such fines and forfeitures, and deliver the same to the sheriff, and a like attested list to each of said treasurers, of the fines and forfeitures to them respectively payable; and when it shall appear to the court of general sessions of the peace in any county, that the fine, forfeiture or costs, for which any person shall be committed to the custody of the sheriff, hath not and cannot be recovered of such person, they shall certify the respective treasurers thereof, and such certificate shall

Sheriff accountable for fines.

Clerks to certify lists of fines.

bar

bar any prosecution therefor by either of said treasurers. And if any clerk shall neglect his duty herein he shall forfeit the sum of five pounds to any person who will sue for the same, in any court of common pleas, to the sole use of the person suing.

Sheriff to settle his account annually.

And be it further enacted, That the sheriff of each county shall annually lay before the justices of the court of general sessions of the peace, his account for all services done by himself or deputies, for dispersing venires, proclamations, and for all other services, by law to be paid out of the county treasury, and such allowance shall be made him as justice may require, and no account for any service of any sheriff or deputy sheriff, after the passing of this act, shall be considered as good against the county, unless the account of such service be presented within one year from the time of performing said services, provided the court of general sessions of the peace shall have been open to receive the same.

Penalty for refusing to pay over money.

And be it further enacted, That if any sheriff or deputy sheriff shall, on demand made, refuse to pay the creditor in any execution, all such sums of money as the said sheriff or deputy shall have received on such execution, he shall forfeit and pay the person to whose use he received such money, five times the lawful interest thereof, so long as he shall detain the same, after demand made.

No sheriff to appear as an attorney.

And be it further enacted, That no sheriff or deputy sheriff shall be suffered to appear in any court, or before any justice of the peace, as attorney to any party in a suit, nor shall any sheriff or his deputy be allowed to make any process, draw any writ or declaration, or make any plea for any other person, and all such acts done by either of them shall be void.

Executions against a sheriff.

And be it further enacted, That when judgment shall be rendered against any person holding the office of sheriff, either in his official or private capacity, for any sum of money, the execution thereon shall be against his goods, chattels and lands, but not against his body; and if such execution be returned unsatisfied, the creditor may file such execution and the return thereon with the secretary of the State, who shall thereupon issue a notification to said sheriff, informing him thereof, and of the day when the same

was

was filed. And if such execution remain six months unsatisfied after such notification is served on said sheriff, the president and council shall forthwith remove such sheriff from his office, and when any sheriff shall be removed from his office, execution may then issue against his goods, lands and body as in other cases.

And when any sheriff is removed from office, he shall and may execute all precepts in his hand at the time of such removal from office.

And be it further enacted, That any sheriff though removed from office, shall have the custody of all prisoners, and the keeping of the gaol, until another sheriff be appointed and qualified as the law directs; and every sheriff so removed shall deliver over to his successor all such prisoners.

Sheriff removed to deliver over his prisoners to his successor.

This act passed February 8, 1791.

AN ACT making provision in case of the death, resignation or removal from office of the sheriff of any county. Passed Dec. 10, 1791.

WHEREAS many and great inconveniencies may arise in consequence of the death, resignation or removal from office of the sheriff of any county of this State, from the want of provision being in such cases made by law :

Preamble.

For remedy whereof,

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the passing this act, in case of the death, resignation or removal from office of the sheriff of any county, his deputy or deputies shall continue in office and shall execute the same in the name of the said sheriff, until another shall be appointed and sworn into office, and until they shall have compleated all business which may have been intrusted to them previous to such decease, resignation or removal from office. And the defaults and misfeasances of such deputy or deputies, in the mean time, as well as before, shall be adjudged a breach of the condition of the bond or bonds to the sheriff who shall have deceased, resigned, or have been removed from office as aforesaid, and the executor or administrator of the deceased

In case of a vacancy deputies to continue in office.

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ed sheriff shall have like remedy for the defaults or misfeasances in office of such deputy or deputies during such interval as they would have been liable to if the sheriff had continued in life and in the exercise of his office.

In case of resignation, &c. to be held answerable.

And be it further enacted, That in case of the resignation or removal from office of any sheriff, he shall be held answerable for compleating all business which may have been committed to his care, and for the delivery to his successor of all prisoners who may be in his custody at the time of his resignation or removal from office; and for that purpose may detain such prisoners in his custody until his successor shall be appointed and qualified as by law directed.

Sheriffs to appoint gaol keepers.

And be it further enacted, That it shall be the duty of the sheriffs in this State, in their respective counties to appoint one or more gaol-keepers, as occasion may require, with full power, and whose duty it shall be, in case of the absence, death or other disability of any such sheriff, to take all necessary care of the gaols and prisoners confined therein, as fully and amply to all intents and purposes as any such sheriff might or ought to do; which gaol-keepers shall in case of the death or other disability of the sheriff or sheriffs so appointing him or them, hold his or their appointment until other sheriff or sheriffs shall be sworn into office, and shall in all cases be responsible for their conduct therein, in the same way and manner as deputy sheriffs are in this act made responsible.

This act passed December 10, 1791.

Passed Feb. 24, 1786.

AN ACT for laying a fine on delinquent sheriffs, and town clerks.

Preamble.

WHEREAS many inconveniences have arisen from the neglect of sheriffs and town clerks, in not seasonably making returns of votes for a president, senators, and other officers, elected by the suffrages of the people:

Therefore,

Penalty on delinquent sheriffs.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any sheriff shall neglect to make due return, agreeable to the constitution,

constitution, of the votes of the respective counties, for all or any of the officers aforesaid, that may seasonably come to the hand or custody of such sheriff, shall, for every such neglect, forfeit and pay a fine of twenty pounds; the one moiety thereof, for the use of the county to which any such delinquent sheriff belongs; the other moiety thereof, for the use of the complainant, who shall sue for, and recover the same, by action, bill, plaint or information, in any court proper to try the same.

And be it further enacted by the authority aforesaid, That if the clerk of any town, parish or district, shall neglect to make return of the votes of his respective town, parish or district, for any of the officers aforesaid, agreeable to the constitution and laws of the State, shall, for each and every such neglect, forfeit and pay the sum of forty shillings, to be recovered in manner aforesaid; the one moiety for the use of the complainant, who shall sue for and recover the same; and the other moiety thereof, for the use of the town, parish or district, to which such delinquent clerk belongs.

Penalty on delinquent town clerks.

This act passed February 24, 1786.

AN ACT directing the proceedings against the trustees of absent or absconding debtors.

Passed Feb. 12, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That where any person shall have in his possession any money, goods, chattels, rights or credits of any debtor, any creditor may cause such person so having said money, goods, chattels, rights or credits, to be summoned as trustee of such debtor; the summons to be made out in the form in this act prescribed; and in such summons a declaration of the demand against the principal debtor, drawn up with legal certainty, shall be inserted; and the said summons shall be served on the trustee, in the same way and manner, as original summonses in other cases by law are, and ought to be served, and shall also be served on the principal debtor, in the same way and manner, if such principal debtor at the time of serving such summons on the trustee, be a resident

Trustees of absconding debtors to be summoned.

fidest or inhabitant within this State. And in all cases where it shall appear to the court that the service on the trustee was not personal, the return being that a copy of such summons was left at the last and usual place of such trustee's abode, the said court shall order the said cause to be continued, until it shall be made to appear that the said trustee hath had notice, or they may continue such cause, such reasonable time as they shall judge just and equitable, in order that the trustee may have due notice of the suit.

Judgment rendered on default where the trustee doth not appear.

And be it further enacted, That if the said trustee do not appear by himself or attorney, at the term or court to which he is summoned, or at such after term to which the same cause may be continued, on account of such trustee, his default shall be recorded, and the charge of his having in his hands or possession, goods, chattels, rights or credits of the principal debtor, to the amount of all such sums as the plaintiff shall prove and recover against the principal debtor in that process, shall be taken and deemed to be true, and execution may issue against him, his proper goods and estate therefor, whenever the said damages and costs are ascertained.

Actions to be continued if requested.

And be it further enacted, That if the said trustee shall appear at the first term, by attorney, and pray continuance on account of his not being able to attend, or for other sufficient cause, such, and any further and reasonable continuance or continuances shall be granted unto him.

And if it appear to the court by affidavit, that the said trustee is infirm and unable to attend in person at the said court, the said court may appoint a commissioner to administer the oath to the said trustee, and the same proceedings may be had before the said commissioner, as far as relates to the examination of the trustee, and answering interrogatories under oath, as are or may be had in the court when trustees personally appear and answer under oath. And the said commissioner shall cause the plaintiff to be notified of the time and place, when and where he will proceed to such examination, that he may be present at the same.

And be it further enacted, That when the said trustee shall appear in his proper person, at the court, he may

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may if the plaintiff requests it, be put to answer interrogatories under oath, as to the estate, rights or credits of the principal debtor, in his hands or possession, at any time since the service of such summons on him as aforesaid.

Trustee to answer upon oath.

And if it shall appear on his oath, or on examination of the whole matter, it be found that such trustee had not at the time of serving such process on him as aforesaid, or at the time of his having notice of such suit, or at any time since, any money, goods, chattels, rights or credits of such principal debtor in his hands or possession, judgment shall thereupon be rendered in favor of such trustee for costs, and no further proceedings shall upon such process be had against the principal debtor, unless such debtor shall have been personally notified of the suit, and the same shall so appear to the court, unless such debtor shall have actually appeared.

And be it further enacted, That where the said trustee shall appear at the court, and it shall appear on his oath, or on sufficient evidence produced by the plaintiff, that such trustee had money, rights or credits of the said principal debtor in his hands or possession, at the time of the service of such summons as aforesaid, or at the time of his having notice of such suit, or at any time since, a record thereof shall be made.

Trustee liable for effects in his hands.

And the said trustee shall be liable to the creditor for the goods and credits so found in his hands, to the value of the judgment recovered against the principal debtor, if so much there be.

And in case the plaintiff shall in such process recover judgment against the principal debtor, execution shall issue against the goods or chattels of the said principal debtor, in the possession of the said trustee, in case goods or chattels shall have been so found in his hands, and a record thereof shall have been made as aforesaid. And on return made by any proper officer, that the said trustee refuseth to expose the said goods and chattels, so that the creditor may levy execution on them; the court shall, on motion of the creditor, grant a rule to shew cause, why execution on such judgment should not issue against such trustee, his proper goods or estate; and upon affidavit of the service

vice of such rule on the said trustee, and no sufficient cause shewn to the contrary, such execution shall be awarded as the court may think proper ; and in all other cases except where the same is otherwise specially provided and declared, execution shall issue against the trustee, his proper goods or estate, for the amount of the sums in such trustee's hand, belonging to the principal debtor ; or so much thereof as will satisfy the plaintiff's demand, and all costs, in the same manner as if the said debt were the trustee's own proper debt.

And in case the sum so found in the hands of said trustee, and for which execution hath issued, or may issue against him, his proper goods or estate, be less than the sum recovered by the plaintiff against the principal debtor, the court may also award execution for the balance against the principal debtor ; but in case the execution awarded against the trustee, be for goods and chattels of the principal debtor, in his hands the value of which is uncertain, and it shall appear to the court, that such goods and chattels will not be sufficient to pay the whole sum recovered by such plaintiff, the said court, may, in their execution against such goods and chattels, order execution to be done of a certain sum only, and may at the same time award execution for the residue of such judgment against the principal debtor ; and the said court may and shall in all cases, issue execution or execution until the judgment be fully satisfied.

Trustee may
defend for
his principal

And be it further enacted, That in all cases, it shall be the duty of the trustee to give notice of any such process served on him as aforesaid, to his principal and he shall have a right to retain in his hand so much of the money or goods of his principal, as will compensate him for his trouble herein ; and the said trustee, if he acknowledgeth that he hath money, goods, chattels, rights or credits of the principal debtor in his hand, or if it be so found on examination, shall if he request it, be admitted to defend on the part and behalf of the said principal debtor, and shall upon being so admitted, be intitled to one continuance of course, to notify his principal, when it doth not appear that he hath already had notice, and he shall have such further continuances in order to prepare his

his defence on the part of the principal as aforesaid, as the court may think just and reasonable, all circumstances considered. But if the said court shall be of opinion that there is fraud and collusion between the plaintiff and the trustee, the said court may refuse to admit the trustee to defend on the part and behalf of the principal, or may admit him to defend under such restrictions as they may think proper, and may, notwithstanding such admission, order the creditor to give notice, such as they may think most likely to have effect, to the principal debtor, before they proceed to trial of the merits of such creditor's demand.

And be it further enacted, That if it shall appear on return of the process issued, that the principal hath been duly served with the process, and he doth not appear by himself or attorney to defend, judgment shall be rendered for such sum in damages, as the plaintiff or creditor shall prove to be justly due, with costs of suit.

Judgment to be rendered against principal if he doth not appear after notice.

But if the said principal debtor be not a resident, or an inhabitant in this State, and no proof be made to the court that he was duly served with a copy of such summons, the said court shall suspend rendering judgment for two terms against such principal debtor, and may order the plaintiff to give such notice of the suit, as they, all circumstances considered, shall think just and reasonable.

Actions to be continued where the principal has not been notified.

And in all cases where the said principal debtor is not an inhabitant or resident of this State, and the process be not served on him in person, and proof thereof made to the court by affidavit, which shall always be in writing and filed in the cause, and the said principal debtor doth not appear, the creditor before he shall have any execution on any judgment he may obtain against any such principal debtor, in any such case, shall give bond to respond the judgment, which such principal debtor may recover on review of the process, which action of review such principal debtor may commence and prosecute at any time within two years next after judgment rendered against him, and on such action of review, the said principal debtor may plead in the same manner as if no default had been made, or as if no such judgment had been rendered against him.

And

Principal
admitted to
defend.

And be it further enacted, That if the said principal debtor doth appear at the said first term, or at any time before judgment be rendered on such process against him, he shall be admitted to defend the same action, as far as relates to the justice and truth of the demand therein exhibited against him.

Execution
to be stayed
in case.

And be it further enacted, That in all cases where the trustee is indebted to the principal debtor, and the time for payment hath not expired, the said court shall suspend issuing execution against such trustee, until the time for payment be expired.

Trustee to
pay in speci-
fic articles in
certain cases.

And be it further enacted, That when any such trustee shall be indebted to the principal debtor, and the contract be for the delivery of any specific article or articles, or for payment in any articles, and the time for such delivery or payment be not expired, the court shall suspend issuing execution as before mentioned, and the said creditor shall be agent of the said debtor, for the purpose of receiving such specific articles, or such payment in such articles, according to the tenor of the contract, and shall levy his execution on such articles so received, to the amount of his debt and costs; and no more, unless in cases where it is impossible to make a division, in which case he shall return the overplus to such principal debtor whenever he shall request the same.

Trustees to
be discharg-
ed for what
is recovered.

And be it further enacted, That the goods, effects or credits of any absent or absconding debtor, so taken as aforesaid, by process and judgment of law, out of the hands of the trustee by any of his said creditors shall fully acquit and forever discharge such trustee, his executors or administrators, of, from and against all actions, suits, damages, payments and demands whatsoever, to be asked, commenced, had, claimed or brought by his principal, his executors or administrators for the same; and if any such trustee be sued for any thing by him done, pursuant to this act, he may plead the general issue, and give this act and the special matter in evidence.

And be it further enacted, That the summons before mentioned shall be in the form following, namely:

is. The STATE of NEW-HAMPSHIRE.

To the Sheriff of our county of or his
deputy. Greeting.

WE command you, that you summon A. B. of
(addition) trustee of C. D. of (addition) if said A.
may be found in your precinct, to appear before
our justices of our court of common pleas, to be hol-
den at in and for said county of on
Tuesday of next, then and there to
answer to E. F. of (addition) upon his declaration
against the said C. D. in a plea of (here insert the
declaration) To the damage of the said E. F. as
he says, the sum of which shall then and there
be made to appear with other due damages, and the
said A. B. hath in his possession, goods, effects or cre-
dits of the said C. D. to the value of pounds, as
the said E. F. says, and have you then and there this
writ with your doings thereon. Witness T. W.
Squire, at the day of Anno Domini, .
N. H. Clerk.

This act passed February 12, 1791.

AN ACT for the limitation of actions, and for the pre-
venting of vexatious suits.

Passed June
16, 1791.

BE it enacted by the Senate and House of Represen-
tatives in General Court convened, That no per-
son shall hereafter sue or maintain any writ of right,
make any prescription, title or claim to any lands,
tenements or hereditaments, or to any rents, annui-
ties or portions issuing therefrom, upon the possession
seizin of his or their ancestor, or predecessor be-
yond the term of sixty years, next before the test of
the same writ.

Limitations
of real ac-
tions.

And no person shall sue, have or maintain any writ
of entry upon disseizin done to any of his ancestors
or predecessors; or any action possessory upon the
possession of any of his ancestors or predecessors for
lands, tenements or hereditaments, unless the an-
cestor or predecessor under whom the demandant shall
claim, should have been seized or possessed of the lands,
tenements or hereditaments, demanded within fifty
years next before the test of the same writ, or bring-
ing such action.

Possessory
actions.

And

And no person, or body corporate, or politick, shall sue for, have or maintain any action for any lands, tenements, or hereditaments, upon his or their own seizure or possession therein, above thirty years next before the rest of the same writ.

Writs of formedon, &c.

And be it further enacted, That all writs of formedon in descender, remainder and reverter of any lands, tenements and hereditaments whatsoever, hereafter to be sued and brought, shall be commenced within twenty years next after the title or cause of action first descended, and at no time after the said twenty years. And no person shall at any time hereafter unless by judgment of law, make any entry into any lands, tenements or hereditaments, but within twenty years next after his right or title first descended or accrued to the same; and in default thereof, such person so not entering, and his heirs, shall be utterly excluded from making such entry thereinto.

Provided always, That when any person that is, shall be intitled to any of the writs of formedon forefaid, or to make an entry into any lands, tenements or hereditaments, shall at the time the said right or title first accrued, descended or fell, be within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, or beyond seas, or without the limits of the United States, that then such person shall or may bring such suit, or make such entry any time within ten years after the said twenty years aforesaid shall have expired, and not afterwards.

Personal actions.

And be it further enacted, That all actions of trespass quare clausum fregit, all actions of trespass, detinue, trover, or replevin for goods or cattle, all actions of account, and upon the case, other than such as concern the trade of merchandize between merchant and merchant, their factors and servants, all actions of debt grounded upon any lending or contract without specialty, all actions of debt for arrearages of rent, and all actions of assault, menace, battery, wounding and imprisonment, or any of them which shall be sued or brought after the first day of July next, shall be commenced and sued within the time hereafter limited and not afterwards, to wit, the actions of account, actions of debt, and actions upon the case, other than for slander, and said actions of trespass, detinue and replevin

levin for cattle and goods; and said actions of trespass quare clausum fregit, within six years from the first day of said July, in the year of our Lord one thousand seven hundred and ninety-one, or within six years next after the cause of such actions or suits, and not after. And the said actions of trespass, of assault, battery, wounding, imprisonment, or any of them, within three years next after the said first day of July, or within three years next after the cause of such actions or suits, and not afterwards; and the said actions upon the case for words within two years next after the said first day of July, or within two years next after the words spoken, and not afterwards.

Provided always, That if upon any of the said actions or suits, judgment be given for the plaintiff, and the same be reversed by writ of error, or a verdict for the plaintiff, and for matter alledged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing for his plaint, writ or bill, that in all such cases the plaintiff, his executor or administrator, as the case shall require, may commence a new action or suit, from time to time within a year after such judgment reversed, or such judgment given against the plaintiff, and not after.

And be it further enacted, That this act shall not extend to bar any infant, *feme covert*, person imprisoned or beyond seas, without any of the United States, or *non compos mentis*, from bringing either of the actions before mentioned, within the term before set and limited for bringing such actions, reckoning from the time such impediment shall be removed.

And if any person against whom there is, or hereafter may be any cause or suit for any and every the species of personal actions before enumerated, who at the time the same accrued was without the limits of the State, and did not leave property or estate herein, that could by the common and ordinary processes of law be attached, that then and in such case the person that is intitled to bring such suit or action, shall be at liberty to commence the same within the respective periods before limited, after such persons return into this State.

And be it further enacted, That no judgment in any writ of error, or personal action, shall, from and after the first day

Saving:

day of July next, be reversed, or avoided for any error or defect therein, unless the writ of error or writ for the reversing such judgment be commenced, or brought and prosecuted with effect, within three years after such judgment entered of record; saving unto any infant, *feme covert*, person *non compos mentis*, person in prison, or beyond sea, the right of bringing any writ of error or writ for the reversing any judgment at any time within three years after such judgment rendered, or within five years after such impediment shall be removed.

Courts to allow no more costs than damages in certain cases.

And be it further enacted, That in all actions of the case for slanderous words, all actions of assault and battery, all actions for imprisonment, all actions for malicious prosecutions hereafter prosecuted in any of the courts of record in this State, if the jury that inquire of the damages do find or assess the damages under forty shillings; then the plaintiff or plaintiffs in any such action shall have and recover only so much costs as the damages so found and assessed amount unto without any further increase of the same. And in all actions of trespass *quare clausum fregit*, where the title of real estate is not in question, if the damages found or assessed by the jury do not amount to forty shillings, the court may if they think proper, allow only such sum in costs as they shall think proper, not exceeding the damages assessed by the jury. And in all other actions commenced at the court of common pleas, if it shall appear to the justices of the said court, or to the justices of the superior court in case of appeal, that the plaintiff or plaintiffs had no reasonable expectation of recovering more than forty shillings damages in such suit; the justices of the said court may limit the plaintiff or plaintiffs in their costs to such sum as they may think just and reasonable in all circumstances duly considered.

This act passed June 16, 1791.

Passed Jan.
26, 1790.

AN ACT limiting suits on penal statutes.

BE it enacted by the Senate and House of Representatives in General Court convened, That all informations, suits, bills, or informations which shall hereafter be had, brought, sued or commenced for any

feiture

seizure upon any penal statute made, or to be made, the benefit whereof is or shall be by the said statute limited in whole or in part to the person or persons who shall inform and prosecute in that behalf, shall be had, brought, sued or commenced by any person that may lawfully pursue the same as aforesaid, within one year from the passing this act, for past offences, and for all offences that shall hereafter be committed, one year from the time of committing them, and not afterwards: And in default of such pursuit, then the same shall be had, brought or prosecuted by the State at any time within two years next after passing this act, for past offences, and for all offences that may hereafter be committed, two years from the commission of such offences and not afterwards. And any indictment for any offence against such statute as aforesaid, shall hereafter be found and prosecuted within two years limited as aforesaid, and not afterwards, any law usage or custom to the contrary notwithstanding; excepting in the instances hereinafter mentioned.

Actions, suits &c. to be brought within one year from.

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Provido:

Provided nevertheless, That when any action, suit, information or indictment for any offence against any penal statutes is or shall be limited by such statute to be brought within a shorter time than is abovementioned, the action, suit, information or indictment in every such case, shall be brought within the time limited by such statute.

Against excise laws within two years from.

Be it further enacted, That all actions, suits, bills, or informations which may be brought for any offence that shall be committed against the excise laws, shall be had, brought, sued or commenced within two years from the time of committing said offence, and not afterwards. And all actions, suits, bills or informations against any penal statute shall be brought and prosecuted in the county where the offence has been or may be committed and not elsewhere. And in all such actions, suits, bills or informations as aforesaid, the defendant or defendants may plead the general issue, and give any special matter in evidence, which shall be as effectual to all intents and purposes as though the same had been specially pleaded.

Provided always, That this act shall not extend to any suit grounded on any statute of, or concerning any customs or impost duties.

This act passed January 26, 1790.

Passed June
21, 1792.

When to as-
semble.

Selectmen to
give notice.

Moderator
to be chosen.

Duty of se-
lectmen.

Clerk.

Secretary.

AN ACT directing the mode of choosing Representa-
tives to the Congress of the United States.

BE it enacted by the Senate and House of Representa-
tives in General Court convened, That the inhabi-

tants of the several towns, parishes, plantations and
places in this State, qualified to vote in the choice of
Senators for the State legislature, shall assemble in
their respective towns, parishes, plantations or places
on the last Monday of August next, and on such other
days as shall be directed in precepts for that purpose,
to be hereafter, with advice of council, issued by the
supreme executive magistrate of this State, so often,
and whenever, by the constitution and laws of the Uni-
ted States, it may become necessary, to elect by ballot,
such number of persons duly qualified, as this State
may be intitled to, for the representatives in the
Congress of the United States: And the selectmen of
the towns, parishes, plantations and places respec-
tively shall give fifteen days notice of the time, place,
and design of such meeting, which meeting shall be
governed by a moderator chosen for that purpose,
who shall impartially preside, and with the selectmen,
whose duty it shall be to attend at such meeting, shall
receive from all the inhabitants of such towns, parishes,
plantations and places respectively present and quali-
fied as aforesaid, ballots or votes for such representa-
tives; and shall in open meeting sort and count the
same, of all which the clerk of such town, parish,
plantation or place respectively, shall make a fair re-
cord in the presence of the said selectmen, of the name
of every person voted for, and the number of votes
against his name, and a full and fair copy of this re-
cord shall be made out and attested by the said select-
men and clerks respectively, and sealed up and directed
to the secretary of the State, with a superscription ex-
pressing the purport thereof, and transmitted into the
secretary's office as herein after directed. And the
secretary shall as soon as may be, lay the same before
the supreme executive magistrate and council, to be
by them examined. And in case there shall appear to
be any, or the full number elected by a majority of
votes, the person or persons thus chosen shall be declar-
ed duly elected: But in case there shall not be any
or the whole number so elected, the supreme execu-
tive

five magistrate in the presence of the council, shall
 cause to be made out a list of the persons having the
 highest number of votes, equal to double the number
 of representatives wanted, and if in making out such
 list it shall happen that two or more persons voted
 for, have an equal number of votes, one of whom
 would be intitled to a place in such list, the names of
 such persons shall be put into a box, and the secretary
 not being one of the candidates, shall in the presence
 of said supreme executive magistrate draw the number
 wanted to complete such list, and the names of the
 persons contained in the list so made, shall be trans-
 mitted to the selectmen of the several towns, parishes,
 plantations and places aforesaid respectively, who shall
 warn a meeting to be holden on the twelfth day of
 November next, which meeting shall be notified, held,
 governed, and the votes received, sorted, counted and
 certified as before directed, and transmitted into the
 secretary's office as herein after directed; and forever
 after, all such meetings shall be held on the day direct-
 ed in the precepts to be issued as aforesaid, and accom-
 panying such lists; which meeting shall be called,
 notified, held and governed, and all transactions rela-
 tive to the same conducted in manner aforesaid; and
 all votes so transmitted to the secretary's office, shall
 be duly examined by the said supreme executive ma-
 gistrate and council for the time being, or such of
 them whose names are not contained in such list, and
 such number of candidates equal to the number of re-
 presentatives wanting, as have the highest number of
 votes, shall be declared duly elected. And in case it
 shall happen by reason of an equality of votes, a choice
 of the whole number, or any part of the representa-
 tives wanting, cannot be declared, the names of the
 candidates shall be put into a box, and the secretary,
 not being one of the said candidates, shall in the pre-
 sence of the supreme executive magistrate draw out the
 number wanted, and the person or persons whose name
 or names shall be so drawn out, shall be declared duly
 elected.—The members so elected and declared, shall
 be considered as representatives of the State of New-
 Hampshire in the Congress of the United States, the
 terms for which they shall be respectively chosen, and
 the secretary shall, as soon as may be, notify them
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Second
 meeting.

Votes by
 whom to be
 examined.

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Representa-
 tives to be
 notified.

of their appointment, and each of the said representatives shall have a certificate of their election, or a commission under the seal of the State, signed by the supreme executive magistrate for the time being, and countersigned by the secretary.

Secretary a
candidate
then—

And in case where the secretary is a candidate, his name put into the box as aforesaid, the said supreme executive magistrate shall appoint some other suitable person in his stead to draw out the name or names of persons in the manner herein before directed. And when it shall happen that by the votes returned, there shall be a majority for more persons than the number required, as many of them as are wanted, having the highest number of votes, shall be declared elected.

Duty of
clerks.

And be it further enacted, That the several clerks aforesaid, respectively shall transmit a certificate of votes taken, sealed up and directed as aforesaid, to the sheriff of the county to which he belongs, within ten days after the time of holding their respective meetings or shall transmit the same to the secretary's office farthest within twenty days from and after the time of such meetings being held: And the several sheriffs shall within twenty-five days from and after the time of holding such meetings transmit to the secretary's office, all votes that shall in manner aforesaid be respectively delivered to them, excepting only that for the present year the votes collected at the second meeting shall, by the several clerks be transmitted to the respective sheriffs within five days after said meetings or be transmitted to the secretary's office within ten days after such meetings. And the respective sheriffs shall convey all votes transmitted to them as aforesaid to the secretary's office within ten days after the time of holding said meetings.

Sheriffs.

Penalty for
neglect of
duty.

And be it further enacted, That the respective sheriffs and the clerks aforesaid, shall be liable to the same penalties for the neglect of the duties enjoined on them respectively by this act, as they are liable to by law for omissions in transmitting the votes for the choice of the president and senators of this State.

This act passed June 21, 1792.

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AN ACT directing the mode of balloting for, and appointing electors of this State, for the election of a president and vice president of the United States.

Approved
June 16,
1796.

BE it enacted by the Senate and House of Representatives in General Court convened, That the inhabitants of the several towns, plantations and places in this State, qualified to vote in the choice of senators for the State legislature, shall assemble in their respective towns, plantations and places, on the first Monday of November next, to vote for six suitable persons, inhabitants of this State, who shall not be senators or representatives in congress, or persons holding offices of profit or trust under the United States, to be electors of a president and vice president of the United States; and the selectmen of the towns, plantations and places shall give fifteen days notice of the time, place and design of such meeting.

Inhabitants
to vote for
electors.

Selectmen to
give notice.

Moderator
to be chosen.

His duty.

Duty of selectmen

and
clerks.

Sheriffs.

And the meeting shall be governed by a moderator or chosen for that purpose, who shall impartially preside, and with the selectmen, whose duty it shall be to attend at such meeting, shall receive from all the inhabitants of such towns, plantations and places respectively present and qualified as aforesaid, votes for such electors; and shall in open meeting sort and count the same, of all which the clerk of such town, plantation or place respectively, shall make a fair record in the presence of the said selectmen, of the name of every person voted for, and the number of votes against his name; and a full and fair copy of this record shall be made out and attested by the said selectmen and clerks respectively, and sealed up and directed to the secretary of the State, with a superscription expressing the purport thereof, and transmitted by the said clerks to the sheriffs of the respective counties to which they belong, within seven days after said meetings, or to the secretary's office, on or before the fourth Wednesday of November next. And the several sheriffs shall on or before the said fourth Wednesday of said November, transmit to the secretary's office, all votes that shall be in manner aforesaid, transmitted or delivered to them. And the respective sheriffs and clerks aforesaid shall be liable to the same penalties for neglect of the duties

Secretary.

**Senate and
house.**

**In case of e-
quality.**

**Secretary to
draw.**

**In case some
other per-
son.**

**Electors
when to
meet.**

duties enjoined on them respectively by this act as they are liable to by law, for omissions in transmitting the votes for governor and senators for this State. And the secretary shall on the fourth Thursday of said November, lay the same before the senate and house of representatives in convention to be by them examined. And in case there shall appear to be any, or the full number, who have a majority of votes, the person or persons having such majority, shall be declared electors; but if there shall not be any, or the whole number having such majority, the senate and house of representatives in convention as aforesaid, shall cause to be made out a list of the persons not chosen, having the highest number of votes, equal to double the number of electors wanted: and if in making out such list it shall happen that two or more persons voted for, have an equal number of votes, which number is also high enough to intitle to a place in said list, the names of such persons shall be put into a box, and the secretary, not being one of the candidates, shall in presence of the said convention, draw the number wanted to complete said list; from which list the said convention shall elect by ballot the number of electors wanted, and the person or persons having a majority of such votes shall be appointed and declared electors, and all the electors duly appointed as aforesaid shall be notified to attend their duty as such.

And be it further enacted, That in cases where the secretary shall be a candidate, and his name shall be put into the box as aforesaid, the said convention shall appoint some other suitable person in his stead to draw out the name or names of a person or persons in the manner herein before directed.

And be it further enacted, That the electors appointed as aforesaid, shall meet and give their votes for president and vice president of the United States, at Concord on the first Wednesday of December next, and shall proceed to do all the other duties incumbent upon them as electors in manner prescribed by law.

Approved June 16, 1796.

AN ACT for the receiving into the treasury of this State certain evidences of debts due from the State, and making compensation for the same. Approved June 21, 1794.

BE it enacted by the Senate and House of Representatives in General Court convened, That a loan be opened on the first day of October next, and continued until the first day of April next, for the purpose of receiving in at the treasury the following described species of evidences of debts due from this State, to be calculated and compensated for in the way and manner hereafter mentioned, viz. Loan opened.

All State notes with interest due thereon to the first day of October next; such notes as are subject to the scale of depreciation being first reduced thereby, certificates issued for interest, and part of the principal of State notes; orders which have been or may hereafter be drawn for bounties and supplies for soldiers families, and for depreciation on soldiers wages, at fifteen shillings for every twenty shillings of the notes, certificates, and orders before mentioned: Provided that where by the laws of this State now in force in any of the above cases, interest is allowed, it shall be calculated, and where State notes and certificates are allowed to be issued thereupon, the holder may receive at his election, said notes and certificates or the compensation made by this act. Bills of the new emission (so called) issued by authority of this State, and which are not redeemed, with the interest promised in said bills, to be calculated at five shillings for every twenty shillings of said principal and interest. State notes, &c. at 15/ for 20/.

Notes called copperplate notes, and every other species of bills not before enumerated, issued by the authority of the Colony, or State of New-Hampshire, principal and interest on those that carry interest to be estimated at five shillings for every hundred dollars. New Emission at 5/ for 20/.

And be it further enacted, That the treasurer of this State be, and hereby is empowered and directed on such notes, certificates, bills and orders being presented to him for the aforesaid purposes, to calculate the same, and the interest thereon, in the way and manner before described in this act, and to pay the whole amount of notes, orders and certificates, not exceeding three pounds each, when calculated as in this act. Copperplate notes at 5/ for 100 dollars.

Treasury directed, &c.

is provided, and one half of the residue of all the different descriptions of the State debts, calculated as above in specie, and for the remaining half, estimated as aforesaid, to issue notes of the following tenor, viz

STATE OF NEW-HAMPSHIRE.

(No.) October 1st, 1794.

In behalf of the State of New-Hampshire, I the subscriber do hereby promise, and oblige myself and successor in the office of treasurer of said State, to pay or order, dollars and cents within eighteen months from the above date, with interest after the rate of six per centum per annum being for value received for the use of said State.

Witness my hand,

Treasurer.

} Committee.

which notes shall be signed by the treasurer, and countersigned by a committee for that purpose to be appointed, and the remaining blanks shall be filled up as the respective cases may require.

And be it further enacted, That all outstanding taxes and debts due on impost and excise, except so far as is necessary for the support of government, and the stock of this State in the funds of the United States or so much of the above as is necessary for the purpose, be, and hereby is appropriated for the due payment of the aforesaid debts, unless otherwise discharged, agreeably to the tenor of the notes to be issued in the form recited in this act.

Provided nevertheless,

And be it further enacted, That the treasurer under the direction of the governor of this State, be, and hereby is empowered to effect a loan, on behalf of the State to the amount of a sum not exceeding twenty five thousand pounds, at the rate of six per cent, for the term of two years; but redeemable at the pleasure of the State after the expiration of one year, and in case of its being effected, that the treasurer pay and discharge the whole of the State debt, calculated as aforesaid, without issue of notes; and that the stock belonging to this State in the funds of the United States may be pledged for the reimbursement of the same.

Approved June 21, 1794.

Form of
notes.

Appropriation.

Treasurer to
effect a loan.

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AN ACT to bar unliquidated claims against the State, which shall not be presented within a limited time. Approved June 16, 1795.

BE it enacted by the Senate and House of Representatives in General Court convened, That all unliquidated claims existing against the State, prior to the fifth day of March, in the year of our Lord one thousand seven hundred and eighty nine, shall be presented for adjustment within two years from the passing this act; and all such unliquidated claims, which shall not be presented within the time aforesaid, shall be forever barred.

Enacting clause.

Approved June 16, 1795.

AN ACT for raising twenty-six thousand six hundred and sixty-six dollars and sixty-seven cents for the use of this State. Approved Jan. 9, 1795.

BE it enacted by the Senate and House of Representatives in General Court convened, That there be raised the current year for the use of this State, twenty-six thousand six hundred and sixty-six dollars and sixty-seven cents; which sum shall be assessed, collected and paid into the treasury on or before the last day of December next; and is appropriated for discharging the debts due from this State, and for the support of government.

Sum to be raised.

And be it further enacted, That the treasurer be, and he hereby is directed seasonably to issue his warrants to the selectmen or assessors of the several towns, parishes and districts within this State, agreeably to the last proportion act, for assessing and collecting the aforesaid sum of twenty-six thousand six hundred and sixty-six dollars and sixty-seven cents.

Treasurer to issue warrants.

And the selectmen and assessors aforesaid, are hereby required respectively to assess and levy the same according to law, and cause the same to be paid into the treasury of this State, on or before the last day of December next; and the treasurer shall issue extents for all taxes which shall then remain unpaid.

Selectmen to assess.

Approved January 9, 1795.

RESOLVED, that the operation of the several votes and resolves directing the treasurer to issue his warrants upon the grant of the first State tax, for collecting the sums advanced by the State to the several

Approved Jan. 2, 1795.

veral towns, in the payment of representatives' attendance, prior to the adoption of the present constitution, be suspended so far as respects any State tax that may be granted this session.

Approved January 2, 1795.

Approved
Jan. 6, 1795.

RESOLVED, that the treasurer be directed to take effectual measures for the collection of the money due to this State on notes of hand, by the first day of October next; and to apply the same with the residue of the money which shall then be in the treasury, or so much thereof as may be necessary, reserving sufficient for the support of government to the discharge of the loan of twelve thousand pounds negotiated in pursuance of an act or law passed last session.

Approved January 6, 1795.

Approved
Jan. 14,
1795.

RESOLVED, that the treasurer be directed to report to the house of representatives at the next session of the general court, immediately succeeding the time when the tax voted this session shall become payable, a particular statement of the deficiencies in payment of said tax, if any; and likewise the extent that have been issued; and that it shall be considered as the duty of the treasurer to make similar reports on all future grants of taxes.

Approved January 14, 1795.

Passed June
16, 1791.

AN ACT declaring the limits and boundaries of the several counties in this State.

BE it enacted by the Senate and House of Representatives in General Court convened, That the division of this State into five counties by the names of Rockingham, Strafford, Hillsborough, Cheshire and Grafton, be and hereby is declared and established as follows, namely:

Rockingham

The county of Rockingham is bounded as follows beginning

beginning at the mouth of Piscataqua river, and running up the same to the easterly corner of Newmarket, including the river, and from thence northwesterly by the easterly and northerly side lines of Newmarket, Epping, Nottingham, Northwood, Pittsfield, Chichester, London, Canterbury and Northfield to the river Merrimac, and down the same to the line of Concord, including the river, then round the westerly line of Concord and Bow to Merrimac river, thence down the same to the northwest corner of Derryfield, thence by the northerly and easterly lines of Derryfield, and the easterly lines of Litchfield and Nottingham-West, to the State line, thence by said line to the sea, thence by the sea to the bounds first mentioned, including all that part of the Isle of Shoals which belongs to this State.

The county of Strafford is bounded as follows, beginning at the northwest corner of Northfield, thence

Strafford.

up the river Pemigewasset or Merrimac, to the southwest corner of New-Holdernefs, thence on the southerly and easterly lines of New-Holdernefs to Sandwich, then on the westerly and northerly lines of Sandwich to Tamworth, then on the northerly lines of Tamworth and Eaton to Conway, from thence on the westerly and northerly lines of Conway, to the State line, thence down said line to the line of the county of Rockingham, thence by said line of the county of Rockingham to the bounds first mentioned.

The county of Hillsborough is bounded as follows, beginning at the south east corner of Nottingham-West, thence westerly by the State line to the south east corner of Rindge, thence by the easterly side lines of Rindge, Jaffrey, Dublin, Packersfield, Stoddard and Washington to the north easterly corner of Washington, thence by the northerly side line of Washington, to the southwest corner of Fishersfield, thence on the westerly side line of Fishersfield and New-London to the north westerly corner of said New-London, thence on the north easterly lines of New-London and Kearsarge, and the northerly side line of Andover to Pemigewasset river, thence on the line of the county of Strafford and Rockingham to the bounds first mentioned.

Hillsboro'gh

The county of Cheshire is bounded as follows, be-

Cheshire.

ginning

ginning at the south east corner of Rindge, and from thence running westerly by the State line to the westerly bank of Connecticut river, thence up the same 'till it comes opposite to the north west corner of Plainfield, then crossing the river to the said corner of Plainfield, thence by the northerly side line of Plainfield, New-Granham and Protectworth to the boundary line of the county of Hillsborough, thence by the westerly line of said county of Hillsborough to the bounds first mentioned.

Grafton.

The county of Grafton shall contain all the lands and waters in said State, not comprehended in the other counties. And all the towns and places within the bounds aforesaid, respectively shall be deemed accepted, named and taken as parts and members of the respective counties aforesaid.

This act passed June 16, 1791.

Passed June 8, 1791.

Registers of deeds and county treasurers to be chosen annually.

AN ACT prescribing the duty and directing the mode of choosing registers of deeds and county treasurers.

BE it enacted by the Senate and House of Representatives in General Court convened, That the inhabitants of each town and place in the respective counties in this State, qualified to vote in the choice of representatives, at some public meeting duly warned and holden some time in the month of March annually, give in their written votes for a register of deeds and for a county treasurer; and the votes shall be sorted and counted in open town meeting, and a record made of the name or names of the person or persons voted for to each of said offices, and the number of votes each person had, and the clerk of such town or place shall proclaim the same in open town meeting, and shall transmit an attested copy of the record of the votes for each of said offices, to the court of general sessions of the peace in the same county, on the first day of the sitting of said court, at the state term next after the month of March in every year.

And the votes being examined by said court, the person having the highest number of votes to each of said offices shall be declared duly elected, and shall continue in office one year from the time of declaring the election, and until some person be chosen and qualified to enter upon the duties of the said office.

And

And no person shall be deemed eligible to either of said offices, who shall not be at the time of his election a freeholder and resident in the county in which he is chosen, and no person shall be considered as qualified to enter upon the duties of either of said offices, until he hath taken the oath by law prescribed for civil officers, and hath given bond for the faithful discharge of the trusts, with such sureties and in such sum as the said court shall approve and order; which sum shall in no case be less than three hundred pounds, nor more than ten thousand pounds.

Provided always and be it further enacted, That it shall be in the power of the justices of the court of general sessions of the peace, to remove or displace the person holding either of said offices for misconduct or discharge of his duty, and to declare said offices vacant by reason of the death, removal from the county of any such officer, or by reason of such officer's becoming *non compos mentis*.

And be it further enacted, That if it shall so happen that two or more persons of those having the highest number of votes for either of said offices, should have an equal number of votes, the justices of the said court of general sessions of the peace shall choose one of the persons so having an equal number of votes, who shall be declared duly elected.

And be it further enacted, That in case the person chosen into either of said offices, in either of the ways before mentioned, shall decline accepting the office to which he is elected, or shall be at the time of declaring such choice *non compos mentis*, or shall have at said time been removed from the county, or shall have died before the said choice is declared; in every such case the justices of said court, shall by a majority of votes elect a person to either of said offices, as the case may be, who shall be a freeholder and resident in the same county, who shall be sworn and shall give bonds previous to his entering on the duties of his office, in the same manner as is before prescribed, and who shall hold the office the same term as though elected by the people.

And be it further enacted, That the court of general sessions of the peace at the term of said court next after the month of March, shall after persons shall have

Their qualifications.

May be removed by the sessions.

Sessions to determine the choice in case

Sessions to elect if the person chosen by the people declines, &c.

or in case a vacancy shall happen in the course of the year,

have been chosen and qualified to enter upon the duties of each of said offices, proceed also by a majority of votes to elect two persons, freeholders and residents in the same county, one for each of said offices to enter upon the duties thereof (after being sworn before two justices of the peace, *quorum unus*, and after having given bonds as before required) upon the death, resignation or removal from office of the person holding either of said offices, or upon such persons becoming *non compos mentis*, or removing from the county; and such person shall thereupon be invested in the same office in the same manner as if such person had been appointed thereto at any annual election, and shall hold the office until a person shall be chosen at the next annual election and qualified to enter upon the duties thereof.

**Register's
duty.**

And be it further enacted, That it shall be the duty of the said register of deeds to keep his office daily (except on Sundays) open in the same county, and keep the books, records, files and papers to the said office belonging, and for the fees by law established to record all deeds and instruments in said office to be recorded, that shall be brought to him for that purpose; and every deed received and filed by the register of deeds shall be recorded by him, and shall not suffer the same to be taken out of the office until the same be recorded.

**Treasurer's
duty.**

And be it further enacted, That it shall be the duty of the county treasurer to collect and receive all moneys belonging or coming to such county, and to employ the same for the defraying of county charges, as the court of general sessions of the peace shall from time to time in writing direct; and the said county treasurer shall render a true account to the said court whenever thereto required, of the sums by him as county treasurer received and paid, and the said county treasurer shall issue his warrants to the selectmen of the several towns and places in said county, liable by law to pay State taxes, requiring them to assess and cause to be collected the just proportion of all such sums as shall be voted, granted and agreed to be raised by the said court of general sessions of the peace; in making said proportion, the said treasurer shall be governed by the

issuing

laws establishing the proportion of public taxes among the several towns and places in this State; and the said treasurer may enforce the collection and payment of said several sums, in the same manner as the State treasurer may and can by law enforce the collection and payment of out standing State taxes.

And the said court of general sessions of the peace, shall make the said county treasurer such allowance for his executing the duties of his office as to said court shall seem reasonable.

Allowance
to the trea-
surer.

Provided always, and be it further enacted, That the order of the superior court of judicature, or the court of common pleas respectively, shall be a sufficient voucher for the payment out of the county treasury of the travel and attendance of the grand jurors of the superior court, for the travel of the petit jurors of either of said courts, with the fees for venires, and the fees of the clerks for examining and certifying the same, and for the payment of all other sums which said superior court, court of common pleas, or any person or persons by law are, or may be authorized to order to be made out of the county treasury.

Vouchers for
payment.

And be it further enacted, That the bonds to be given by the register of deeds, shall be given to the county treasurer and his successor in office, and shall be for the benefit of the person or persons injured by the misconduct of the register of deeds in his said office, and shall be put in suit by order of the court of general sessions of the peace, and execution shall be done from time to time for all such sums as any person or persons shall have recovered judgment for, against such register of deeds, and for which they shall not have otherwise obtained satisfaction.

Register's
bonds.

And the bonds given by the county treasurer shall be given to the clerk of the court of general sessions of the peace, and shall be for the use of the county, and shall be put in suit by order of the court of general sessions of the peace, and execution shall be done on judgment obtained thereon, for all such sums (not exceeding the amount of such judgment) as the treasurer shall be in arrear in his account with the county, and the suit shall be commenced in an adjacent county, notwithstanding neither party may be inhabitants therein.

Treasurer's
bonds.

Exclusion.

And be it further enacted, That no clerk of any superior court of judicature, court of common pleas, or court of general sessions of the peace, shall, at the same time be register of deeds or county treasurer, nor shall any person at the same time be register of deeds and county treasurer.

This act passed June 8, 1791.

Passed Feb.
8, 1791.

AN ACT for regulating towns and the choice of town officers.

Town lines
to be perambulated.

BE it enacted by the Senate and House of Representatives in General Court convened, That the lines between towns shall be perambulated, and the marks and bounds renewed within two years from the passing of this act, and once every seven years forever after by the selectmen of each town, or by such person or persons as they shall in writing appoint for that purpose; and their proceedings shall be recorded in the respective town books; and the selectmen of that town which hath been longest organized or incorporated, shall give notice in writing unto the selectmen of the towns adjoining, which have not been so long organized or incorporated, of the time and place of meeting for such perambulation, ten days before hand; and where two towns were incorporated on the same day, that which is highest in the valuation or proportion of public taxes shall be considered as the senior town; and if the selectmen whose duty it is to give such notice, shall neglect to notify in the manner and season by this act required, they shall forfeit the sum of five pounds, to be recovered by the selectmen of any junior town adjoining, who are intitled to such notice, by action in the court of common pleas; one half to the use of the selectmen who sue for the same, and the other half to the use of the town where the selectmen suing for the same belong; to be commenced in one year after such forfeiture shall have accrued, and not afterwards.

And in case the selectmen whose duty it is, shall give such notice as by law they ought to give, but shall neglect to attend at the time and place agreeably to the notification, they shall for every such neglect

neglect

lect forfeit the sum of five pounds, to be recovered and disposed of in the same manner as the forfeiture above mentioned, and shall be prosecuted in the time therein limited, and not afterwards.

And in case the selectmen of the junior town, after being duly notified to attend such perambulation, shall neglect to attend agreeably to such notification, they shall forfeit the sum of five pounds, to be recovered by the selectmen of the senior town so notifying, in the court of common pleas; and to be appropriated one half to the selectmen suing for the same, and the other half to the use of the senior town; provided the action be commenced in one year after the forfeiture shall have accrued, and not afterwards.

And in default of such prosecution in either of the cases aforesaid, within the time limited as aforesaid, the said forfeiture may be recovered by indictment, in the superior court of judicature, if found at any time within two years next after the said forfeiture shall have accrued.

And in either of the cases aforesaid, where a town shall adjoin on a parish with town privileges, the said parish shall be considered to all intents and purposes as the junior town, and shall be intitled to notice accordingly; and the selectmen thereof shall have the same powers, and be liable to the same penalties for all the purposes before mentioned, as the selectmen of towns.

And where any town shall adjoin on any tract of land unincorporated, the perambulation may so far as they adjoin be exparte.

And be it further enacted, That every male inhabitant of each town in this State, of twenty-one years of age and upwards, paying for himself a poll tax, shall have a right to vote in the town where he lives, of which he is an inhabitant, in any public town-meeting, in any matter that shall come before such town. Voters.

And be it further enacted, That at the annual meetings of the inhabitants of each town in this State, duly warned and holden in such town annually, for ever in the month of March, on such day as the charter of such town, or the law of this State hath prescribed, the said inhabitants being assembled in legal town Town officers to be chosen.

town meeting duly warned, shall then and there by major vote choose a suitable person to be clerk of such town, and three or more persons, not exceeding nine, able and discreet, of good conversation, and freeholders inhabiting in such town, to be selectmen, overseers of the poor, treasurer, firewards, a constable or constables, all of whom shall be freeholders and inhabitants of said town, collectors of taxes, surveyors of highways, tythingmen, fence viewers, clerk of the market, sealers of leather, sealers of weights and measures, hogreeves, cordors of wood, surveyors of lumber, culler of staves, haywards or field drivers, and every other town officer that the law of this State directs, and such other officers as they may judge necessary for managing their affairs, and the before named, and all other town officers, known in law as such, shall have an oath administered unto them agreeably to the form prescribed, for the faithful discharge of the duties of their respective offices. And such officers shall continue in office the space of one year, or until the next annual meeting for the choice of town officers, and until others be chosen and sworn in their room, except in cases where the law shall otherwise direct; and the powers of all collectors of taxes and surveyors of highways, shall continue until they shall have collected all the monies in their lists contained, of the persons therein named, or have caused the labor required to be done in such surveyors warrants to be done and performed.

and sworn.

Town clerk to record.

And it shall be the duty of the town clerk truly to record all votes passed in any town meeting while in office, and to discharge all the duties of the office according to law; and the selectmen shall have the ordering and managing of all the prudential affairs of such towns, and the said town clerk, selectmen and all other town officers, shall faithfully do, perform and execute all other matters and things in the law appointed by them to be done and performed.

And the selectmen of any town may, and shall discharge the duties of overseers of the poor, and treasurer, where such officers shall not be particularly chosen, and any town may choose assessors, who shall have the qualifications of selectmen, and shall have all the powers of selectmen as far as relates to assessing taxes.

And

And the town clerk, or any two of the selectmen, shall forthwith after the choice of such town officers, by writing under his or their hands, direct any constable of such town to notify the persons so chosen and named in such writing, to appear within six days from the day of such notice before the town clerk for the time being, or any of the selectmen, or any justice of the peace in the same county, and take the oath by law prescribed; and the constable shall within four days after the receipt of such writing or precept, notify the persons therein named agreeably to the tenor of said precept, which notice shall be personal or left at the usual place of abode of the person so chosen; or such persons may be notified to take the oath of office in open town meeting, by the moderator, any selectman, or the town clerk; and such person if present shall immediately in open meeting declare his acceptance or refusal.

And every person not by law exempt from serving in such office, who shall after such notice being given in open town meeting as aforesaid, neglect for the space of one hour to take the oath of office, and every person who shall neglect for the space of six days, after he shall have received such other personal notice as before mentioned, or for the same space of time after the notification shall have been left at his place of abode, or for the space of six days after he shall have returned to his dwelling house, in case he was absent when the said notification was left, to appear and take such oath, and in case the same is taken before any person other than the town clerk, to file a certificate of his having so taken it with the town clerk, shall forfeit and pay the sum of twenty shillings to any person who will sue for the same; provided nothing above contained shall be considered as applying to such officers for whose neglect a different penalty is by law provided.

And every constable shall within ten days after the receipt of such writing or precept, return the same with his doings therein to the town clerk for the time being; and every constable neglecting his duty in any of the particulars aforesaid, shall forfeit and pay the sum of thirty shillings to any inhabitant of this State who will sue for the same; the one half of

Town officers to be notified to take the oath of office.

Penalty for neglect.

Constable to return the notification.

of the forfeitures before mentioned to be for the use of such town, and the other half to the use of the prosecutor.

Provided always, That no person shall be obliged to serve in any town office two years successively, nor shall any person in commission for any office, civil or military, church officer, any member of the legislature for the time being, nor any one who has served in the office of a constable in any town in this State other than such as shall serve for hire of any particular person, or of any town, within seven years, be obliged to serve in the office of constable: *And provided further,* that no person shall in any case be compelled to serve as a collector of taxes.

Town clerk
to record
names of
persons
sworn.

And be it further enacted, That the town clerk shall make a record of the names of such persons as shall be sworn into any town office.

Town clerk,
&c. empow-
ered to swear
town officers

And be it further enacted, That any town clerk, or any one of the selectmen, or any justice of the peace, be, and they hereby are respectively empowered to administer the oath of office in form by law prescribed to any town officer.

Vacancies to
be filled.

And be it further enacted, That when there shall be a vacancy in any town office, by reason of the death of any town officer, or by reason of the non-acceptance of any person chosen into any such office, or by reason of the removal of any such officer, or by reason of any person becoming *non compos mentis*, in the judgment of the town, or when there shall be a vacancy in any other way, or when there shall be a want of any town officer or officers, the inhabitants of such town at any legal meeting duly warned and holden in such town, or at the adjournment of the annual meeting may proceed to fill up such vacancies, and to choose such officer or officers as may be wanting, and the officer or officers so chosen and sworn shall have the same power and authority as though chosen at the annual meeting for the choice of town officers. And in every such case the person filling such vacancy is authorized to take up the business appertaining to his office, where his immediate predecessor in office left it, and to proceed to the full execution and discharge of the same, as fully to all intents and purposes as the officer first chosen into said

office

office that year could or might have done. And all officers chosen at said meetings shall be liable to the same penalties and forfeitures for not accepting, or not taking the oath of office, and for every neglect of duty in their respective offices, as though such officers were, or had been chosen at the annual meeting for the choice of town officers.

And be it further enacted, That in case any collector of taxes in any town in this State shall die, abscond or become non compos mentis, before he shall have completed the collection of the several sums in his lists contained, the inhabitants of any such town, may at any public meeting duly warned and legally holden in such town, choose a collector, or hire and agree with one in his room, who shall have power and authority to finish the collection of the sums in such lists contained, in as ample a manner as the collector to whom such list was originally committed could have done, and shall be liable for the taxes outstanding at the time he received the list, in the same manner as other collectors are by law answerable for the lists committed to them to collect.

New collectors chosen in case of death, &c.

And be it further enacted, That if any town or place shall neglect or refuse to choose a collector or collectors, or shall refuse to fill up a vacancy in case the office be vacant, in either of the ways before mentioned, in every such case the selectmen of such town or place shall and may make such choice, or fill up such vacancy, and the person so appointed by the selectmen shall have all the power and authority as far as relates to collecting State and county taxes, and shall be liable to the same pains and penalties, in case of neglect of duty, as collectors chosen by the inhabitants of any town or place by law are, or may be liable; and the selectmen may give such collector by them so appointed, in the case aforesaid, a reasonable sum for his trouble, and may charge the town to which they belong therewith.

Selectmen to appoint collectors.

And be it further enacted, That the inhabitants of every town in this State, qualified by law to vote in town affairs, at any meeting duly warned and legally holden, are hereby empowered to make and agree upon such necessary rules, orders and by-laws for the directing, managing and ordering the prudential affairs.

By-laws.

fairs of such town, as they shall judge most conducive to the peace, welfare, interest and good order of the inhabitants of such town, and to annex penalties to such laws, not exceeding twenty shillings for one offence, and to enure to such use as they shall therein direct. Provided such laws be not repugnant to the constitution and laws of this State, and provided also that such by-laws be approved by the court of general sessions of the peace in the same county. And the penalty for any breach of such by-laws shall be recovered before any justice not interested therein.

Towns to grant money.

And be it further enacted, That the inhabitants of each town in this State, qualified to vote as aforesaid at any meeting duly and legally warned and holden in such town, may agreeably to the constitution, grant and vote such sum or sums of money as they shall judge necessary for the settlement, maintenance and support of the ministry, schools, meeting houses, school houses, the maintenance of the poor, for laying out and repairing highways, for building and repairing bridges, and for all the necessary charges arising within the said town, to be assessed on the polls and estates in the same town as the law directs.

Town meetings how warned.

And be it further enacted, That when there shall be occasion for a town meeting, the selectmen shall make out a warrant under their hands and seal, directed to some constable in the same town, requiring him to notify the inhabitants of such town, qualified by law to vote in town affairs, to meet at a place in said town, and at a certain hour therein mentioned, and the said selectmen shall in such warrant, insert the intent and design of such meeting, and the subject matter of all business, matters and things to be considered and acted upon at said meeting; and nothing done at said meeting holden upon, or by virtue of said warrant shall be considered as good and valid by law, unless the subject matter thereof shall have been inserted as aforesaid.

And the constable shall post up an attested copy of such warrant at the meeting house, or some public place in said town, fifteen days before the day of holding such meeting, or give personal notice, or like number of days before such meeting (unless in cases where other and different notice is by law prescribed

(scribed and directed) or otherwise notify and summon the inhabitants in such way and manner as the inhabitants shall at any legal meeting agree upon; and the constable shall return such warrant at the place, and at the hour for holding such meeting, with his doings therein, to the town clerk, or in his absence, to any of the selectmen to be acted upon.

And in case ten or more of the freeholders in any town, shall signify their desire in writing to the selectmen, to have any matter or thing inserted in a warrant for calling a meeting, the selectmen are hereby required to insert the same in the next warrant they shall issue for a meeting, or call a meeting for the express purpose of considering thereof, if the same should be requested. And in case the selectmen shall unreasonably neglect to call a meeting, or to insert such article, the sixth part of the legal voters in any such town may apply to any justice of the peace within the same county, who is hereby authorized and empowered to issue his warrant under his hand and seal, directed to any constable of the town, if any such there be, otherwise to any of the freeholders applying, directing and requiring him to warn the inhabitants of such town, qualified to vote in town affairs, to assemble at such time and place in said town, as the said justice shall order, and for the purposes in said warrant expressed, and the same notice shall be given and return thereof made as in other cases.

And when by reason of death or removal of selectmen, a major part of the number originally chosen, shall not remain in office, in such case a major part of the survivors, or such as remain in office, shall have power to call a town meeting, for the purpose of filling up such vacancy.

And if it should so happen at any time, that there should be no constable in office in any town, or if the constable or constables should be absent, or neglect or refuse to do their duty herein, the selectmen may direct their warrant for calling a town meeting to any freeholder in such town, who is hereby authorized, empowered and required to notify and summon the said inhabitants in the same manner, as a constable might or could do. And such freeholder shall be sub-

jected to the like penalty for neglect of duty herein, as constables are in the like case.

And if any constable shall in any of the particulars aforesaid, neglect his duty, he shall, for each offence forfeit and pay the sum of ten pounds to any inhabitant of the town who will sue for the same, in the court of common pleas in the same county, the one half thereof to the use of the town, and the other half to the use of the prosecutor.

Parishes
with town
privileges
declared
towns.

And be it further enacted, That all places incorporated by the names of parishes with town privileges are hereby declared to be towns to every intent and purpose, and are intitled to all the privileges, and vested with all the powers, and liable to all the penalties to which towns by this act are intitled, or which such towns are vested with, or to which towns are liable.

Penalty for
neglecting to
call meetings

And be it further enacted, That if any selectmen shall neglect to issue a warrant, for the holding of meetings in due course of law, for the choice of president, senators, representatives, county register, and county treasurer, and town officers, they shall for each neglect, forfeit and pay the sum of ten pounds, to be recovered by any person who shall sue for the same in the court of common pleas, which sum shall be for the benefit of the person suing for the same.

Justices to
call meetings
in case.

And be it further enacted, That whenever it shall happen, that the annual meetings of any town or parish in this State hath not been duly holden, or in case any town or parish hath never had any legal meeting, then on the application of any ten freeholders of such town or parish, made in writing to any justice of the peace, such justice shall call a meeting of the inhabitants of such town or parish by warrant under his hand and seal, directed to any of the freeholders of said town or parish, in which warrant shall be expressed the design of such meeting, and the articles to be acted upon; and the same notice shall be given as in other cases of warning town meetings, and the said justice shall preside in said meeting until a moderator be chosen.

Moderator
to preside.

And be it further enacted, That at every town meeting a moderator shall be first chosen, by a majority of votes, who shall then be empowered to manage and regulate

regulate the business of that meeting, and when any vote declared by the moderator, shall immediately, and before any other business be entered upon, be scrupled, or questioned by seven or more of the voters present, the moderator shall make the vote certain, by polling the voters, or in such way as the majority of the voters present may determine. And no person shall speak in the meeting without leave of the moderator, nor when any other person is orderly speaking, and all persons shall be silent at the desire of the moderator, on pain of forfeiting five shillings for the breach of every such order, to the use of the town, and if any person after being notified by the moderator of such offence, or of being out of order, shall persist in such disorderly conduct, the moderator shall order such person to withdraw from the meeting, and such offender upon his refusal or neglect to withdraw, shall forfeit and pay the sum of twenty shillings to the use of such town, for each and every such offence; said forfeitures to be recovered by the moderator, selectmen or town treasurer, before any justice of the peace in the same county, not an inhabitant of the same town, unto whom the penalty or any part of it is given.

Provided always, That town meetings for the choice of president and senators of this State, electors and representatives of the United States, shall be regulated and governed as the constitution, and laws respecting such elections may specially direct.

And be it further enacted, That all penalties and forfeitures in this act mentioned, not exceeding forty shillings, shall be sued for before a justice of the peace in the county where the offence may be committed; the action to be commenced within three months after the offence committed, and not afterwards.

And be it further enacted, That the inhabitants of every town within this State, are hereby declared to be a body politic and corporate, and as such by the name of their incorporation may sue and be sued, and may prosecute and defend any action or suit in any proper court in this State; and such towns may at any legal meeting, duly warned and holden in such town, choose an agent or agents, attorney or attorneys for the purposes aforesaid, and a certificate of such

Penalties,
how recover-
ed.

Towns in-
corporated.

Trustees and
proprietors
to sue and
be sued.

Mode of ser-
vice on cor-
porations,
proprietors,
&c.

Places unin-
corporated
to choose af-
fessors, &c.

such appointment signed by the town clerk, shall be deemed sufficient evidence thereof.

And be it further enacted, That all trustees of colleges, academies, schools, and proprietors of common and undivided lands, grants and other estates or interests, be, and hereby are empowered to sue, prosecute and defend any actions, and to appoint an agent or agents, attorney or attorneys to appear for them and in their behalf.

And be it further enacted, That when any town, body politic or corporate, or the proprietors of any common and undivided lands, trustees for schools, academies or colleges are sued, an attested copy of the writ shall be delivered to the clerk of such town, body politic or corporate, or proprietors of common and undivided lands or trustees, or to one of the principal inhabitants or members, thirty days before the sitting of the court to which the same is returnable, or left by the like number of days before the sitting of said court, at his last and usual place of abode.

And be it further enacted, That all places unincorporated, which shall from time to time be ordered by the general court to pay any part of the public taxes, shall be, and they hereby are invested with all the powers which towns in this State by law have, so far as relates to the choice of assessors, selectmen and collectors, and the persons chosen into said offices respectively, shall be liable to the same penalties for not taking the oath of office, and to the same penalties, forfeitures and process for neglect of duty in any thing pertaining to their respective offices, as such officers in towns by law are; and the inhabitants of such unincorporated places, who may neglect or refuse to choose assessors, selectmen and collectors, shall be liable to the same process as the inhabitants of towns so refusing or neglecting; and any justice of the peace upon the application of any five of the inhabitants of any such place, shall warn a meeting for the choice of such officers in the same manner as he is authorized and required by law to do, on the application of the inhabitants of any town, on the refusal or neglect of selectmen, and such assessors shall have the same power, and it shall be their duty to warn meetings in such places for the choice of all such officers in future.

And

And be it further enacted, That where any town or place in this State, by law liable to pay public taxes, have refused or neglected, or shall refuse or neglect to choose proper officers for assessing and collecting taxes according to law, the treasurer of the State, and the county treasurers respectively, are empowered and authorized to issue their executions against the inhabitants of such towns or places, and the persons from whom such sums shall be levied, shall have contribution against the other inhabitants of such town or place for such sums so levied from them as aforesaid, and all costs and damages they may have sustained thereby, and shall recover double costs of suit.

Treasurers may issue extents against the inhabitants in case.

And be it further enacted, That in all cases where any thing by law is enjoined upon, or to be done by the selectmen of any town or place, it shall be sufficient, if done by the major part of such selectmen.

Major part of selectmen to act.

And be it further enacted, That no person shall by virtue of his being chosen constable, be compelled to collect any rates or taxes.

Constable not obliged to collect taxes.

This act passed February 8, 1791.

AN ACT for extending the boundaries of certain towns. *Whereas the several towns in this State adjoining Connecticut river, are bounded by the easterly banks of said river, by reason whereof, the islands, ferries, bridges, &c. in and upon said river cannot by law be taxed by said towns :*

Approved Jan. 6, 1795.

Preamble.

For remedy whereof—

BE it enacted by the Senate and House of Representatives in General Court convened, That the northerly and southerly lines of each of the several towns aforesaid, be and they hereby are continued and extended across said river, to the westerly line of this State; which line shall hereafter be considered as the bounding westerly line of said towns.

Enacting clause.

Provided nevertheless, That nothing in this act contained, shall be construed to affect the grants of such islands, bridges, ferries, &c. heretofore made, nor prevent the making of grants in future of such islands, bridges, ferries, locks, canals, and other conveniencies

Proviso.

conveniencies for the public benefit, nor the right of fishing in said river, and using the same as a public highway as heretofore.

Approved January 6, 1795.

*Approved
Jan. 1, 1796.*

AN ACT to ascertain the ways and means by which persons may gain a settlement in any town or district within this State, so as to intitle them to support therein, if they shall be poor and unable to support themselves.

*How a legal
settlement
shall be
gained.*

BE it enacted by the Senate and House of Representatives in General Court convened, That legal settlements in any town or district within this State shall be hereafter gained so as to oblige such town or district to support the persons gaining the same if they become poor and unable to support themselves, by the ways and means following, and no otherwise.

*A married
woman.*

1st. A married woman shall have the settlement of her husband if any he have within this State, but otherwise her own, if any she had at the time of marriage, shall not be lost or suspended by such marriage, unless she shall have gained a legal settlement elsewhere; but in case no such settlement shall be by her obtained after such marriage; and in case she shall become poor and be supported at the cost and charge of the town or district of her settlement at the time of such marriage, the husband being poor and needing relief, he shall be provided for and supported in the same town or district, but at the charge of the State.

*Legitimate
children.*

2. Legitimate children shall have the settlement of their father, if he shall have any such within this State, until they gain a settlement of their own; but if he shall have none, they shall have the settlement of their mother, if she shall have any.

*Illegitimate
children.*

3. Illegitimate children shall have the settlement of their mother at the time of their birth, if she shall have any within this State; but neither legitimate or illegitimate children shall gain a settlement by birth in any place where they may be born, if no

ther

right of their parents shall then have a settlement there.

4. Any person of twenty one years of age and upwards, having real estate of the value of one hundred and fifty dollars, or personal estate of the value of two hundred and fifty dollars in the town or district where he dwells and has his home, and shall for the term of four years pay all taxes duly assessed on his poll and the estate aforesaid, shall thereby gain a settlement in such town or district.

Persons of 21 years of age.

5. Any person who shall be admitted an inhabitant by any town or district at a legal meeting, in the warrant for which an article shall be inserted for that purpose, or shall be chosen and actually serve one year in the office of clerk, treasurer, selectman, overseer of the poor, assessor, constable, or other town officer liable to be fined for not accepting his office, being duly elected thereto in any town or district within this State, shall thereby gain a settlement in said town or district.

Persons admitted.

6. All persons dwelling and having their homes in any unincorporated place in this State, at the time when the same shall be incorporated into a town or district, shall thereby gain a settlement therein.

Persons in unincorporated places.

7. Upon division of towns or districts, every person having a settlement in either of them, but being removed therefrom at the time of such division, and not having gained a settlement elsewhere, shall have his settlement in that town or district wherein his former dwelling place or home shall be upon such division. And when any new town or district shall be incorporated, composed of one or more old incorporated towns or districts, all persons settled in the town or towns, district or districts, of which such new town or district is composed, and who shall actually dwell and have their homes within the limits of such new town or district at the time of its incorporation, shall thereby gain a settlement in such new town or district.

Divisions of towns.

Provided nevertheless, That no person residing in that part of any town or district, which upon such division shall be incorporated into a new town or district, having then no settlement therein, shall in any, by force of such incorporation ; nor shall

Provido.

such

such incorporation prevent his gaining a settlement therein, within the time, and by the means by which he would have gained a settlement there if no such division had been made.

Any person
being taxed.

8. Any person of the age of twenty-one years who shall hereafter reside in any town or district within this State, and being taxed for his poll for the term of seven years, shall pay all taxes legally assessed on his poll and estate during the said term, shall be an inhabitant in said town or district.

And every legal settlement heretofore gained, or which shall be gained by force of this act, shall continue until lost or defeated by gaining a new one and upon gaining a new settlement, all former settlements shall be lost.

Approved January 1, 1796.

Passed Dec.
23, 1791.

AN ACT to empower watchmen to apprehend and commit disorderly persons as is herein after declared.

Preamble:

WHEREAS it is judged very expedient that a walking night watch should be kept in such towns in this State as shall think proper to support the same, to prevent house breaking, stealing, and other disorders, as well as to make seasonable discovery of fires; but as persons employed in that service may not have authority ex officio, to restrain any one they have reason to suspect or find engaged in any such crimes, they may be exposed to insults and suits: *Wherefore* for the security, and to enable them the better to effect the part of their duty.

Selectmen to
appoint
watchmen.

BE it enacted by the Senate and House of Representatives in General Court assembled, That the selectmen in any town which have, or shall at any legal meeting, determine to maintain such a night watch are hereby authorized to agree with so many suitable persons as the town have, or shall order as aforesaid for performing a walking night watch in such town and appoint their limits and station, and all things requisite for said service, and to give them such instructions as they shall judge proper for the best execution of the office of such watchmen, as also to pay them according

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According to such agreement. And such watchmen shall have by virtue hereof, full power to restrain any person or persons, they shall find committing any kind of disorder or disturbance, or any crime, or such as are strolling about the streets or high ways at unreasonable hours, who refuse to give any, or may justly be suspected to give a false account of their business or design, or who can give no account of the occasion of their being out. And for this purpose, such watchmen are hereby authorized to command assistance as occasion shall require, and to commit the offenders to the common gaol, where that may be done, or put them under keepers, 'till they can be carried before one or more justice or justices of the peace for said county, which such watchmen are hereby authorized and directed to do as soon as may be the next day, in order to the examination of such offenders, and their being dealt with according to law. And the said watchmen are hereby authorized to execute and discharge the duty and instructions, which they shall receive from time to time from the selectmen, with whom they shall agree as aforesaid, and are accordingly directed so to do; and shall be under oath, to be administered by any justice of the peace for said county, to the faithful discharge of their trust, agreeable to their contract with the selectmen. And every person duly required and commanded to assist the said watchmen, or any of them, to apprehend or keep any of the offenders aforesaid, or to commit them pursuant to this act, who shall neglect or refuse so to do, shall be liable to the same penalty by law inflicted for neglecting or refusing to assist the sheriff in cases where they are by law required.

Their power to restrain, &c.

To command assistance, &c.

To be under oath.

Penalty of persons refusing to assist.

This act passed December 23, 1791.

AN ACT to prevent common nuisances.

Passed Jan. 3, 1792.

WHEREAS slaughter houses for killing beasts and cattle, houses for trying tallow, or currying leather, by reason of offensive and ill stench proceeding from the same, are hurtful to the health, and dangerous to the neighbourhood in large and populous towns in this State.

Preamble.

7.

For

The duty of owner or occupier of a slaughter-house.

No slaughter house to be erected without leave.

For remedy whereof: *Be it enacted by the Senate and House of Representatives in General Court convened,* That where any slaughter house is already erected for killing of beasts in the compact part of any populous town in this State, the owner or occupier thereof shall at least three times in every week, from the last day of March to the last day of October, annually, remove and carry away, or cause to be removed and carried away from such slaughter house or out house or houses, and the appendages thereof, to some remote part of the town, all the entrails, garbage, filth and offals of such beasts as may have been killed there, and as often as need be, sufficiently wash and cleanse their said houses or houses, used for killing of beasts, so as more effectually to prevent the stench and effluvia thereof from disturbing the peace, and endangering the health of any of the citizens of this State, on penalty of forfeiting the sum of thirty shillings for each week's neglect, to be recovered before any justice of the peace in the county where the offence may be committed, one moiety thereof to the person who shall complain or sue for the same, and the other moiety shall be for the benefit of the poor of the town where the offence is committed, and the proof of any dead beasts hanging up in any out house, or the laying in or carrying out the entrails, garbage or blood of any beasts shall be sufficient proof in law that such house is used for a slaughter house within the intent of this law.

Be it further enacted by the authority aforesaid, That from and after the passing this act, no person shall erect or occupy in the compact part of any large and populous town in this State any slaughter house, or house for trying of tallow, or for currying of leather, except such as are already used for such purpose without leave, first had and obtained from the selectmen of such town, together with the approbation of two justices of the peace for said county, on penalty of forfeiting forty shillings a month for occupying any building in the aforesaid trades or mysteries, except as before excepted, without leave first had and obtained in writing, under their hands for said purpose.

And be it further enacted, That in case the regulations aforesaid, respecting the cleansing and preventing

ing dangerous stench and effluvia arising from the use of the slaughter houses or other out houses that now are or that have been used in any populous town or towns in this State, should be found ineffectual to prevent the inconveniences thereof, on sufficient proof of which, it shall and may be lawful for the justices of the superior court of this State to take cognizance thereof, and issue order to the owner and occupier of any or all such slaughter houses or other buildings used for killing of beasts as aforesaid, and thereby forever prohibit such use thereof, and if such owner or occupier should refuse to obey such order, and persist in killing beasts as aforesaid, it shall and may be lawful for said justices of said court to issue their precept to the sheriff or his deputy of any county where such offence shall have been committed and continued, directing him to take down and remove such building used as aforesaid, and to sell immediately at auction, so much of the materials thereof as will pay him reasonably for executing said precept, and all costs of taking down and removing the same.

Where found ineffectual the justices of S. C. to prohibit the use thereof.

And be it further enacted by the authority aforesaid, that henceforth no cart, trucks, sled or dray, drawn by either horse or horses, horse and oxen, or oxen only, shall be suffered to pass through any of the streets or lanes in the compact part of the town of Portsmouth without a sufficient driver, who shall, during such passage, keep with his cart, trucks, sled or dray, and carefully attend and observe such methods as may best serve to keep their horses or oxen under command, and shall have the rill horse by the bridle or halter, and whatsoever carter or other person undertaking to drive any cart, trucks, sled or dray as shall neglect to observe the rules aforesaid, such carter, driver, or the owner of such team so offending, shall forfeit and pay the sum of six shillings for each offence, to be recovered in the same way and manner as herein before directed for other nuisances.

Duty of carter, &c.

And be it further enacted by the authority aforesaid, that no person shall ride through any of the streets or lanes in the compact part of any populous town in this State on a gallop, or any swifter pace than at the rate of five miles an hour, on penalty of forfeiting the sum of six shillings for each offence, to be recovered

No person to ride at the rate of more than five miles an hour

in

Sundry nuisances prohibited.

in the same manner as before directed in this act for other nuisances.

And be it further enacted, That no person shall hereafter erect or set up any house of office or casement, or lay or leave any dead beast or carrion within the compact part of any populous town in this State, or suffer the same to continue, being already standing or set up within forty feet of any street, lane or highway, or the dwelling house, shop or well of any neighbour, except on wharves or banks of the river, unless the same be vaulted six feet deep and sufficiently secured and enclosed, on penalty of forfeiting the sum of twenty shillings for every transgression of this law, and the like sum of twenty shillings for every three months the said nuisance shall continue after the first conviction; nor shall any person in said Portsmouth erect or keep any pen or sty for swine so near the streets or lanes, or their neighbour's dwelling, as to become a nuisance, in the judgment of the surveyor or surveyors of the highways, or three or least of the selectmen of said town for the time being who are hereby empowered and directed to remove the same, or order it to be removed at the expense of the owner, and shall recover double cost in any court proper to try the cause.

This act passed January 3, 1792.

Passed Feb. 8, 1791.

AN ACT for establishing an equitable method of making taxes, and for ascertaining the powers of selectmen.

Selectmen to make assessments.

BE it enacted by the Senate and House of Representatives in General Court convened, That the selectmen of the several towns in this State, be, and they hereby are authorized, empowered and required seasonably in every year to assess the polls and estates within such towns according to the rules and directions of the law, their just and equal proportion of all sums of money, granted by the general court, for which they shall have a warrant under the hand and seal of the treasurer of this State for the time being, and their proportion of all sums of money voted and agreed to be raised by the justices of the court of general

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general sessions of the peace in the same county; for which they shall have a warrant under the hand and seal of the treasurer of the same county; and all such sums of money as shall be voted to be raised at any legal meeting by the inhabitants of their town; and they shall also assess the polls and estates within such town, all such sums of money, as they may by any law of this State be authorized and empowered to assess. And the selectmen may from time to time, if they judge it necessary and convenient, in assessing the State, county and all other taxes, assess a sum over and above the sum required to be assessed, not exceeding one shilling on every pound required to be assessed, to answer any abatement that may be necessary in collecting such taxes; and the said overplus sum shall be paid to the town treasurer, or to the selectmen, for the purposes aforesaid, and for the use of such town or place.

And the selectmen shall make lists of all such assessments under their hands, and commit the same unto the collector or collectors of their respective towns, with a warrant under their hands and seal in due form of law: and in such lists shall be set down and expressed the names of all the inhabitants or residents therein taxed for their polls and estates, or estates only, and their several proportion of each tax; and a particular description as hereinafter mentioned of the estate of any persons taxed in such lists, who are not inhabitants of such town, and the proportion of such estate to each tax. And the said selectmen shall cause a fair entry and record to be made of all invoices by them taken, and assessments by them made, in a book of record of the doings and proceedings of the selectmen in their said office, which book shall be the property of, and shall be open to any of the inhabitants of said town.

And the said selectmen shall also have their assessments recorded by the town clerk in the book of records belonging to such town, or shall leave an attested copy with him seasonably for that purpose, and a copy of the invoice from which the assessment was made, shall be recorded or left with the town clerk in manner aforesaid, that the inhabitants or others rated may inspect the same.

Collectors
empowered
by warrant.

Assessments
and invoices
to be record-
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And

Selectmen to
return names
of collectors.

And be it further enacted, That the selectmen of the several towns shall seasonably return to the respective treasurers or persons to whom they shall order the collector to pay any sum or sums of money, the name or names of the collector or collectors within their respective towns, with an account of the sums he is ordered to collect and pay to them respectively, the date of the warrants given to him for that purpose, and the time when he was ordered to pay the same to the respective treasurers aforesaid.

Selectmen to
take inven-
tories.

And be it further enacted, That the inhabitants of the several towns within this State, shall annually exhibit to the selectmen a just and true account of their polls and estates rateable by law. And the selectmen shall give warning at any public meeting, or post up notifications at some public place or places in such town, or in some other way notify the respective inhabitants of such town, of the time and place in such town, when, and where they will meet to receive such account, and the said selectmen may make personal application to the respective inhabitants of such town, for an account of their polls and rateable estate, in the manner usually practised in this State or in any manner such town may agree upon, and said invoice shall be taken, of what the respective inhabitants shall be possessed of on the first day of April annually, and shall be taken some time in the same month; and in case any person shall remove from any town after the first day of April, he shall pay his taxes that year in the town from whence he removed, and if any person shall neglect, after being duly notified, or shall refuse when called upon in person, by any of the selectmen to give a true account of his poll and rateable estate on oath, if required, which oath any selectman is hereby empowered to administer, the selectmen may set down to such person or persons as much by way of doomage as they shall judge equitable, and make the assessment accordingly, which shall not be abated by the sessions, unless in cases where the person is unable to exhibit a particular account, and offers to make oath that that is the case, and that he has used every endeavor in his power to enable him to make out such account.

And be it further enacted, That if any person giving

giving in an account to the selectmen of his estate rateable by law, shall not give in the whole of his estate so rateable, but shall conceal some part thereof from the knowledge of such selectmen, they may for any estate so concealed and not given in, upon discovery of the fraud, rate such person in all taxes of that year, four times as much as such estate, if given in by the owner would by law have been rated or taxed.

Penalty for returning fraudulent inventories.

And be it further enacted, That the selectmen be, and hereby are empowered to abate any taxes, as well those assessed by their predecessors, as by themselves, of any person applying for the same, provided sufficient reason for such abatement be shewn; and if the selectmen deny or refuse to make such abatement, the person conceiving himself aggrieved by any tax or assessment, may apply by way of petition, except in the case beforementioned, to the court of general sessions of the peace in the same county, who are hereby empowered to make such order on the premises as justice may require. Provided that such application be made within nine months after such person shall have been notified of such assessment, and requested to pay the same.

Abatements

And provided always, That the court of general sessions of the peace shall not have power to abate any taxes, except as to such articles and matters as the selectmen having the power of valuing, shall in the judgment of said court have overvalued.

And be it further enacted, That if the selectmen of any town in this State, having received the State treasurer's warrant, requiring them to assess any sum or sums of money on the polls and estates within their respective towns, shall neglect to assess the same within the time, in the manner and according to the directions given in such warrants, the same being agreeable to law, the persons and estates of such selectmen shall be liable, and hereby are subjected to be taken in execution for the same, to be issued, served and executed in all respects as the law prescribes in the case of neglect of collectors in paying the sums contained in their lists; and the said treasurers are hereby authorized and empowered to issue their executions against such selectmen accordingly, and such selectmen shall have no remedy against the inhabitants of such

Selectmen liable in case of neglect.

town

town for any thing, except the sum mentioned in the treasurer's warrant, when they shall have paid the same, and in any suit to be brought for the recovery of the same, the said selectmen shall recover no costs, nor any damages by reason of such execution; and in case the selectmen shall neglect to return the name or names of the collector or collectors to whom they shall commit any list of State, county, or town taxes, to the treasurer of the State, county or town agreeably to the directions given them by the State treasurer, county treasurer or towns respectively, they shall be liable to executions from the said treasurer respectively, in the same manner as in cases where they neglect to make any assessment, and shall have no remedy against the inhabitants of their respective towns for any thing, but the sums by them actually paid to the said treasurers, and shall recover no costs in any suit brought for the recovery of the same. And in all cases where an execution is issued against selectmen for neglect of assessing taxes, or neglect of returning the name of the collector, the same shall be issued against the selectmen, whose duty it was to assess such tax, and to return the name of such collector; and in case no estate of such selectmen can be found whereon to levy the same, and their bodies cannot be found to be imprisoned, and the same shall be so returned by the sheriff, to whom the same execution may be directed to be returned, an execution for the same sums may then be issued against the inhabitants of such town in the same manner, as in the case where such inhabitants had neglected to choose any selectmen or assessors.

And be it further enacted, That all personal estate and all buildings and real estate, shall be taxed to the person claiming the same, who is in the possession and actual occupancy thereof; and when the owner of any lands and personal estate shall be deceased, the same may be taxed to the widow, any of the children, heirs, or any other person who will consent to be considered as in possession thereof; but if no person will consent to be taxed therefor, the same shall be taxed generally to the heirs of such deceased; and when any person shall be living in any house, or on any farm on the first day of April, and shall not be

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the owner thereof, and shall refuse to give the same unto the selectmen as his estate, the same shall be particularly described in the tax bill as under the occupant, naming him on the first day of April, and the number of acres as near as may be estimated, the number of the lots, or such other description shall be given as the said land, farm or buildings are commonly known by ; and in case no person shall be in actual possession of any house, which is in the judgment of the selectmen tenantable, or any real estate improved as pasture, mowing, arable or otherwise, and the same shall not be owned by any inhabitant or resident in such town or parish, the said house and land shall be particularly described as aforesaid, and shall be taxed in such lists without mentioning the owner, unless the owner thereof be known to the selectmen, in which case his name shall be mentioned.

And be it further enacted, That the selectmen shall be, and hereby are empowered to assess all buildings, other than such as are beforementioned, and unimproved lands owned by non-resident proprietors, in their respective towns and places their just proportion of the State and county taxes, estimating their value as the law directs, and in such lists a particular description of the number, division, quantity and situation of the lands so taxed shall be expressed; and the name of the present owner, if known, otherwise the name of the original owner or person to whom the same was drawn, and the proportion of each lot or division to each tax shall be set down and expressed in such list.

and estate of
non-resi-
dents.

And be it further enacted, That all rates and taxes shall be made and assessed in proportion to the amount of each person's poll and rateable estate, which shall be estimated as follows (namely) all male polls, from eighteen to seventy years of age, ten shillings each ; horses and oxen which have been wintered five winters (reckoning the winter to begin on the first day of December and to end the last day of March) at three shillings each ; cows which have been wintered five winters, two shillings each ; cattle and horses which have been wintered four winters, one shilling and six pence each ; cattle and horses which have been wintered three winters, one shilling each ; cat-

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tle and horses which have been wintered two winters, six pence each; improved lands to be estimated as follows, viz. orchard land one shilling and six pence per acre, accounting so much for an acre as will produce ten barrels of cyder or perry one year with another; arable land one shilling per acre, accounting so much an acre as will produce one year with another, twenty five bushels of indian corn, or other grain equivalent; mowing land one shilling per acre, accounting so much land as will produce one year with another, one ton of English hay, or other hay equivalent to be one acre; pasture land at five pence per acre, accounting so much as will summer a cow to be four acres; all mills, wharves and ferries to be estimated at one twelfth part of their neat yearly income; and all other buildings, and the unimproved lands owned by the inhabitants and non-residents to be estimated at the rate of half of one per cent of the real value thereof; all stock, or property, whether of a tanner, currier, blacksmith or other tradesman employed in the business of their trade, and all stock whether money or goods, improved in trade or merchandise, shall be estimated at three quarters of one per cent of the value thereof more than the owner gives interest for, excepting what is due on public securities of this State; money on hand, or at interest shall be estimated at three quarters of one per cent.

And be it further enacted, That when any alteration shall be made in the mode of estimating polls and estate, the same shall be expressed in the warrant of the State treasurer for raising the next State tax thereafterward.

This act passed February 8, 1791.

Approved
February
22, 1794.

AN ACT to establish an equitable method of making rates and taxes, and collecting such as are now due from, or may hereafter be assessed on such towns and places as are, or may be incapable of choosing town officers.

BE it enacted by the Senate and House of Representatives in General Court convened, That henceforth

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ward all public taxes shall be assessed on the polls and Polls.
 rareable estates in the manner following to wit, each
 male poll, from eighteen to seventy years of age, to Stallions.
 be valued at eight shillings;—stallions or steed hor-
 ses, which have been wintered three winters, each at
 one pound ten shillings;—other horses and mares, Horses.
 which have been wintered five winters, each at four
 shillings;—other horses and mares, which have been
 wintered four winters only, each at three shillings;—
 other horses and mares, which have been wintered
 three winters only, each at two shillings;—other
 horses and mares which have been wintered two win-
 ters only, each at one shilling;—oxen which have Oxen.
 been wintered five winters, each at three shillings;
 —cows which have been wintered five winters, each Cows.
 at two shillings;—all other neat stock which has
 been wintered four winters only, each at one shilling
 and six pence;—all other neat stock which has been
 wintered three winters only one shilling each;—all
 other stock which has been wintered two winters on-
 ly, each at six pence, reckoning the winter to begin
 the first day of December and to end the last day of
 March. Orchard land, accounting so much for an a Orchard.
 cre as will one year with another make ten barrels of
 cyder or perry, each acre at one shilling and six pence;
 —arable land, accounting so much for an acre as will Arable.
 produce twenty five bushels of Indian corn or other
 grain equivalent one year with another, at one shil-
 ling each acre. Mowing land, accounting so much Mowing.
 an acre as will produce one ton of English hay, or
 other hay equivalent, one year with another, at one
 shilling for each acre;—pasture land, accounting so Pasture.
 much as will keep one cow one year with another
 four acres, each acre at five pence. Mills, wharves Mills, &c.
 and ferries to be estimated at one twelfth part of their
 net yearly income, after deducting repairs; all other
 buildings and unimproved lands, whether owned by Buildings.
 inhabitants, or non-residents, at half of one per cent
 of the real value; all stock or property whether of
 tanners, curriers, blacksmiths, or other tradesmen em-
 ployed in the business of their trades, at half of one
 per cent; all stock in trade of merchants, shopkeep- Stock in
 ers, or other traders, reckoning the same at the aver- trade.
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age value thereof for a year, at half one per cent;
Money; all money on hand or at interest, more than the own-
 er pays interest for, at three quarters of one per cent;
Property in all property in public funds to be estimated at the
funds. same rate according to its real value.

And be it further enacted, That the collectors of
Collectors. taxes, and the persons appointed to receive non-resi-
 dents taxes, shall proceed in the business of collecting
 the taxes levied upon the real estates of non-residents
 in all things agreeably to the laws of this State now
 in force; excepting that the said receiver of non-resi-
 dent taxes shall publish his notification of such taxes
 in a newspaper printed (if such there be) in the coun-
 ty where such estate may lie, and not in a Boston
 newspaper; and the collector of such taxes shall pub-
 lish his advertisement for the sale of such estate in a
 newspaper printed (if such there be) in the county
 where such estate may lie, as well as in the New
 Hampshire Gazette.

And be it further enacted, That when any taxes are
 or shall be proportioned to any town or place not in-
 corporated, having so few inhabitants as to be inca-
 pable of choosing town officers, the treasurer of the
Treasurer. State shall assess the proportion of such town or place
 and commit the same to the sheriff of the county where
 the lands lie, with a warrant under his hand and seal

Sheriff. empowering said sheriff to collect the same; and every
 such sheriff shall have the same power and authority
 respecting the taxes committed to him to collect
 which collectors of towns have with respect to the
 taxes of non-residents; and shall observe the same di-
 rections, which are by law pointed out—and he shall
 in all cases advertise also in the shire or in one of the
 nearest half shire towns in the county where such
 lands may lie—and shall also hold his sales in such shire
 or half shire town; and may give deeds in the same
Deeds. form (mutatis mutandis) which deeds shall be of equal
 efficacy, as those given by collectors chosen by incor-
 porated towns—and the treasurer shall have like re-
 medy by extent against such sheriffs as he by law has
 against collectors—and the treasurer may always pre-
 sume that a town or place is incapable of choosing
 town officers, where no return of a collector is made
 to him on or before the last day of December in each

year;

year; and unless the treasurer is certified under the hand of the clerk of the proprietors of any such town, or place, before the said last day of December in each year, that such town or place is divided among the proprietors; and also served with a copy of such division or partition so as to enable him to tax the several owners of the same; he shall assess the whole in one sum; but if he is so certified, he shall assess the original owners according to their several interests in quantity without regard to the quality of their lands; and in either case his proceedings shall be good and valid, any proceedings of the proprietors notwithstanding.

Treasurer.

And be it further enacted, That the several and respective county treasurers in this State, shall have like power and authority respecting county taxes, as is in this act given to the State treasurer, and may pursue the same measures in collecting county taxes—and the sheriffs, to whom any such warrants for collecting county taxes are delivered, shall have the same authority, and proceed in the same manner as is herein provided for them to collect State taxes, and deeds by them given in similar form shall be equally valid.

County treasurers.

And be it further enacted, That where any taxes have heretofore been assessed to the State, or to any particular county, and yet remain unpaid, the same may be collected in the same manner, as taxes hereafter to be assessed, are by this act ordered to be collected.

State or county taxes unpaid.

And be it further enacted, That for all taxes heretofore apportioned to townships and places of the foregoing description agreeably to the several laws of the State, and now remaining unpaid; and where collectors have not been returned; the selectmen or assessors, for the time being, shall make out in one sum the whole amount of the several years taxes now due, first reducing the paper taxes to seven shillings specie for every twenty shillings paper, and may appoint a collector thereof, who shall have the same power as any other collectors by law have.—And the said collectors, at any time before the last day of December next, may be returned to the treasurer, and in case such collectors are not returned, the several

Selectmen.

Collectors.

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ral treasurers shall have the same power of assessing in one sum the said arrears, as the selectmen and assessors have by this act.—And the respective treasurers and sheriffs are hereby as fully empowered with respect to assessing and collecting said arrears, as by this act are given in other cases.

Sheriff.

And be it further enacted, That the sheriff shall be allowed for the services herein prescribed, double the poundage given by law on executions, the printer's bill for advertisements, and legal postage for letters for procuring the said advertisements to be published and for posting the notice required by the laws of the State, which shall be considered full compensation for such services. Provided, that no collector or sheriff shall execute a deed of any real estate by him sold for taxes, until the time for redeeming the same shall be expired; provided such time of redemption shall not exceed the term of twelve months from the time of sale.—And in case any sheriff, or collector shall die, remove, or any way be rendered incapable of completing the duty of such office, their successors respectively shall complete the same.—And if any person whatsoever shall pay or tender the amount of any one tax and the legal charges, and the interest thereof, to such sheriff or collector or their successor at any time before a deed or deeds of such lands shall be actually executed, no further proceedings shall be had thereupon.

Directions
for Portf-
mouth.

And be it further enacted, That the inhabitants of Portsmouth, in this State, shall exhibit to the selectmen thereof, annually, at such time and place as they shall appoint, each one a just and true account of his poll and rateable estate according to this act.—And the several parishes in said Portsmouth shall have liberty at their parish meetings, to raise their ministerial and parochial taxes in any manner they shall judge proper.

Approved February 22, 1794.

Approved
June 17,
1796.

AN ACT in addition to, and amendment of an act, entitled, "An act to establish an equitable method of making rates and taxes, and for collecting such as are now due from, or may hereafter be assessed on such towns and places as are, or may be incapable of choosing town officers."

BE it enacted by the Senate and House of Representatives in General Court convened, That the treasurer

of this State is hereby authorized and directed to redeem, with any monies now in the treasury, all such townships or locations as have been sold pursuant to warrants issued, either for State or County taxes, agreeably to the directions hereafter mentioned, excepting those that have already been, or shall be redeemed prior to the time fixed in this act for redemption by the State, viz. That previous to any redemption by him made, he is hereby directed to give public notice to all persons concerned, by publishing an advertisement in the New-Hampshire Gazette, the Eagle printed at Hanover, and the Boston Mercury, in which advertisement shall be inserted the substance of this act, also that it be his duty to attend said business from the first to the tenth day of August next inclusive, at Exeter, and that he shall proceed to redeem such townships and locations as have been sold by virtue of said act, where the purchaser or purchasers shall neglect to appear and give bonds within said time to the sheriff who sold the same with sureties; conditioned that he or they will relinquish his or their claim to any lot, right, or tract of land where the owner, proprietor or claimant shall pay his or their proportion of the sum for which such township or location was sold, with interest thereon, on or before the expiration of one year from the day of sale; and the said sheriff or sheriffs on receiving indemnification, may, and it shall be his or their duty to receive of any person or persons claiming any lot or tract of land sold as aforesaid, their proportion of the sum for which said land was sold, according to their interest therein, together with interest therefor, which proportion shall be made according to the number of acres, without regard to the quality of said land; and the said sheriffs shall except the proportion any claimant shall redeem, in the

Treasurer to
redeem
townships,
&c.

To give no-
tice.

His duty.

Sheriffs du-
ty.

the deed he shall make to the purchaser or purchaser of any township or townships or locations ; and the treasurer is hereby directed to call on any sheriff or sheriffs who have sold lands as aforesaid, whose duty it shall be to attend from the said first to the tenth day of August next at Exeter accordingly; and if the sheriff or sheriffs shall neglect to attend on said business as aforesaid, it shall be the duty of the treasurer to redeem the lands as herein directed.

Sheriffs to
receive tax-
es.

Any pro-
prietor may
redeem his
share.

And be it further enacted, That in all cases where the tax of any township or location is assessed in on sum by the treasurer, either for state or county taxes and such township is not sold, the said sheriff or sheriffs are hereby authorized and directed to receive from any owner, proprietor or claimant (when tendered) his proportion of the assessment and cost (if any) according to his interest therein ; the proportion to be made according to the number of acres aforesaid, and after any sale shall be made by virtue of the act to which this is an addition, any proprietor, owner or claimant may redeem his share of the same according to his interest therein, paying his proportion as aforesaid, and the sheriff shall make the exceptions in his deed to the purchaser or purchaser as herein pointed out, where townships or locations have been sold ; and the treasurer is hereby authorized to proceed in the collection thereof, any resolution to the contrary notwithstanding.

Approved June 17, 1796.

Approved
February
22, 1794.

AN ACT for making and establishing a new proportion of public taxes among the several towns, parishes and places within this State ; and to authorize the treasurer to issue his warrants for levying the same annually.

BE it enacted by the Senate and House of Representatives in General Court convened, That the proportion to every thousand pounds of the public taxes, which each town, parish and place within the State shall annually pay, and for which the treasurer is hereby authorized and directed to issue his warrants, shall be as follows, to wit.

For

For the county of Rockingham.

	l.	s.	d.
Allenstown, one pound, five shillings and ten pence,	1	5	10
Atkinson, four pounds, four shillings and four pence,	4	4	4
Bew, three pounds, five shillings and eight pence,	3	5	8
Brintwood, eight pounds, one shilling and four pence,	8	1	4
Candia, seven pounds, thirteen shillings and six pence,	7	13	6
Canterbury, eight pounds and four pence,	8	0	4
Chester fourteen pounds, eight shillings and six pence,	14	8	6
Chichester, three pounds, twelve shillings and three pence,	3	12	3
Concord, twelve pounds, one shilling,	12	1	0
Darfield, twelve pounds, nine shillings and ten pence,	12	9	10
East Kingston, three pounds, four shillings and eleven pence,	3	4	11
Elving, eleven pounds, two shillings and six pence,	11	2	6
Essex, five pounds, fifteen shillings and four pence,	5	15	4
Exeter, twelve pounds, six shillings and four pence,	12	6	4
Greenland, five pounds, five shillings and two pence,	5	5	2
Hampstead, five pounds, seven shillings and four pence,	5	7	4
Hampton, eight pounds, nine shillings and eight pence,	8	9	8
Hampton Falls, five pounds, eleven shillings and four pence,	5	11	4
Hawke, three pounds, ten shillings and four pence,	3	10	4
Hemington, seven pounds, four shillings and four pence,	7	4	4
Hogston, seven pounds, five shillings and two pence,	7	5	2
Hendonerry, eighteen pounds, nine shillings & one penny,	18	9	1
Hendon, seven pounds, one shilling and four pence,	7	1	4
Hew-Castle, one pound, nine shillings,	1	9	0
Hewington, four pounds, two shillings,	4	2	0
Hewmarket, seven pounds, nineteen shillings & nine pence,	7	19	9
Hewston, three pounds, six shillings and six pence,	3	6	6
Horsfield, four pounds, nine shillings and ten pence,	4	9	10
Hors-Hampton, six pounds, three shillings and two pence,	6	3	2
Horswood, five pounds, eighteen shillings and one penny,	5	18	1
Hottingham, seven pounds thirteen shillings and nine pence,	7	13	9
Hulham, six pounds, seven shillings and seven pence,	6	7	7
Humbrook, six pounds, eighteen shillings and six pence,	6	18	6
Hutfield, five pounds, eighteen shillings and eleven pence,	5	18	11
Haislow, three pounds, fourteen shillings & eight pence,	3	14	8
Hoplin, three pounds, eighteen shillings,	3	18	0
Horsmouth, twenty seven pounds and ten pence,	27	0	10
Hymond, five pounds, six shillings and six pence,	5	6	6
Hut, six pounds, one shilling and five pence,	6	1	5
Hulm, seven pounds, seven shillings,	7	7	0
Hendon, four pounds, five shillings and seven pence,	4	5	7
Habrook, three pounds, seventeen shillings,	3	17	0
Hul-Hampton, four pounds, nine shillings,	4	9	0
Hatham, seven pounds, seven shillings and eleven pence,	7	7	11
Hindham, four pounds, thirteen shillings and ten pence,	4	13	10
	314	4	3

For the county of Strafford.

Arnstead, five pounds, twelve shillings and one penny,	5	12	1
Arrington, fifteen pounds, thirteen shillings & eight pence,	15	13	8
Arway, four pounds, four shillings,	4	4	0
Arver, fourteen pounds, eleven shillings & eight pence,	14	11	8
Arham, nine pounds, eight shillings and two pence,	9	8	2
Eaton,			

	l.	s.	d.
<i>Eaton</i> , one pound, five shillings and one penny,	1	5	1
<i>Effingham</i> , one pound, ten shillings and eight pence,	1	10	8
<i>Gilmanstown</i> , eighteen pounds, eleven shillings & six pence,	18	11	6
<i>Lee</i> , seven pounds, six shillings and eight pence,	7	6	8
<i>Madbury</i> , four pounds, nineteen shillings and six pence,	4	19	6
<i>Meredith</i> , seven pounds, ten shillings and six pence,	7	10	6
<i>Middleton</i> , four pounds, one shilling and nine pence,	4	1	9
<i>Moultonborough</i> , three pounds, fifteen shillings & eight pence,	3	15	8
<i>New-Durham</i> , three pounds, seven shillings,	3	7	0
<i>New-Durham-Gore</i> , two pounds, nineteen shillings and eleven pence,	2	19	11
<i>New-Hampton</i> , four pounds, twelve shillings & eight pence,	4	12	8
<i>Offspring</i> , two pounds, fourteen shillings and six pence,	2	14	6
<i>Rochester</i> , eighteen pounds, eleven shillings & seven pence,	18	11	7
<i>Sandbornton</i> , twelve pounds, twelve shillings & four pence,	12	12	4
<i>Sandwich</i> seven pounds, one shilling and six pence,	7	1	6
<i>Somersetworth</i> , six pounds, five shillings and five pence,	6	5	5
<i>Tamworth</i> , two pounds, one shilling and four pence,	2	1	4
<i>Tuftenborough</i> , one pound, six shillings and nine pence,	1	6	9
<i>Wakefield</i> , five pounds, two shillings,	5	2	0
<i>Wolfsborough</i> , three pounds, eleven shillings and three pence,	3	11	3

168 17

For the county of Hillsborough.

<i>Amberst</i> , eleven pounds, seven shillings and two pence,	11	7	2
<i>Andover</i> , four pounds, four shillings and four pence,	4	4	4
<i>Antrim</i> , three pounds, eighteen shillings,	3	18	0
<i>Bedford</i> , six pounds, seven shillings and four pence,	6	7	4
<i>Boscarwen</i> , seven pounds, eight shillings and six pence,	7	8	6
<i>Bradford</i> , one pound, eleven shillings and one penny,	1	11	1
<i>Campbell's-Gore</i> , fifteen shillings and eight pence,	0	15	8
<i>Deering</i> , five pounds, twelve shillings,	5	12	0
<i>Derryfield</i> , two pounds, five shillings and seven pence,	2	5	7
<i>Dunbarton</i> , six pounds, ten shillings and one penny,	6	10	1
<i>Dunstable</i> , four pounds, two shillings and nine pence,	4	2	9
<i>Fishersfield</i> , one pound, fifteen shillings and eight pence,	1	15	8
<i>Francesstown</i> , six pounds and two pence,	6	0	2
<i>Geffestown</i> , eight pounds, two shillings and four pence,	8	2	4
<i>Greenfield</i> , three pounds, eighteen shillings & seven pence,	3	18	7
<i>Hancock</i> , three pounds, nineteen shillings & three pence,	3	19	3
<i>Henniker</i> , seven pounds, sixteen shillings,	7	16	0
<i>Hillsborough</i> , five pounds, ten shillings and four pence,	5	10	4
<i>Hollis</i> , seven pounds, fifteen shillings and five pence,	7	15	5
<i>Hopkinton</i> , twelve pounds, nineteen shillings,	12	19	0
<i>Keasarge-Gore</i> , nine shillings and eight pence,	0	9	8
<i>Lyndeborough</i> , six pounds, thirteen shillings and eight pence,	6	13	8
<i>Lytchfield</i> , two pounds, twelve shillings and four pence,	2	12	4
<i>Mason</i> , five pounds, eight shillings and four pence,	5	8	4
<i>Milford</i> , four pounds, eighteen shillings and one penny,	4	18	1
<i>Merrimack</i> , five pounds, four shillings and nine pence,	5	4	9
<i>New-Boston</i> , nine pounds, two shillings and nine pence,	9	2	9
<i>New-Ipswich</i> , nine pounds, seven shillings and four pence,	9	7	4
<i>New-London</i> , two pounds, four shillings and six pence,	2	4	6
<i>Nottingham-West</i> , six pounds, six shillings & three pence,	6	6	3

Peterborough,

Peterbor
Raby, t
Salisbury
Seaton,
Society &
Sutton,
Temple,
Warner,
Ware, t
Wilton,

Acworth
Alstead,
Charles
Cheshire
Claremont
Cornish,
Croydon,
Dublin,
Fitzwilliam,
Hindale,
Gilsum,
Goshen,
Jaffrey,
Kene, ni
Langdon,
Lampeter,
Marlboro
Marlow,
New-Gra
Newport,
Packersfield,
Plainfield,
Richmond,
Rindge, se
Springfield,
Stoddard,
Surry, the
Sullivan,
Swansey,
Unity, the
Walpole, e
Washington,
Wendell, c
Westmorland,
Winchester

Alexandria
Bartlett, c
Bath, three

220 II 2

For the county of Cheshire.

191 13 10

For the county of Grafton.

Bretton

Proportion of Taxes.

	l.	s.	d.
Bretton-Woods, nine shillings and six pence,	0	9	6
Bridgewater, two pounds, six shillings and ten pence,	2	6	10
Burton, sixteen shillings and eight pence,	0	16	8
Cambridge, eleven shillings and five pence,	0	11	5
Campion, three pounds, six shillings and one penny,	3	6	1
Canaan, three pounds, eighteen shillings,	3	18	0
Chatbam, ten shillings and nine pence,	0	10	9
Cockburne, twelve shillings and seven pence,	0	12	7
Cockermouth, one pound, seventeen shillings and one penny,	1	17	1
Colebrooke, fifteen shillings and eight pence,	0	15	8
Concord, (in the county of Grafton) two pounds, five shillings and four pence,	2	5	4
Coventry, twelve shillings and four pence,	0	12	4
Dalton, twelve shillings and three pence,	0	12	3
Dartmouth, thirteen shillings and one penny,	0	13	1
Dorchester, one pound, ten shillings,	1	10	0
Dummer, eleven shillings and three pence,	0	11	3
Enfield, five pounds, thirteen shillings and eight pence,	5	13	8
Errol, eleven shillings and three pence,	0	11	3
Franconia, seventeen shillings and seven pence,	0	17	7
Grafton, two pounds, eleven shillings and seven pence,	2	11	7
Hanover, seven pounds, thirteen shillings and five pence,	7	13	5
Harverhill, four pounds, eighteen shillings,	4	18	0
Hebron, one pound, three shillings and two pence,	1	3	2
Kilkenny, eleven shillings and two pence,	0	11	2
Lancaster, one pound, eight shillings and seven pence,	1	8	7
Landaff, two pounds, six shillings and five pence,	2	6	5
Lebanon, eight pounds, six shillings and eight pence,	8	6	8
Lime, four pounds, sixteen shillings and eight pence,	4	16	8
Lincoln, ten shillings and eleven pence,	0	10	11
Littleton, fourteen shillings and one penny,	0	14	1
Lyman, one pound, twelve shillings and five pence,	1	12	5
Millsfield, eleven shillings and three pence,	0	11	3
New-Chester, two pounds, seven shillings and four pence,	2	7	4
New-Holdernefs, two pounds, seven shillings and five pence,	2	7	5
Northumberland, one pound, three shillings and nine pence,	1	3	9
Orange, fifteen shillings and two pence,	0	15	2
Orford, three pounds, six shillings and eight pence,	3	6	8
Peeling, ten shillings and eleven pence,	0	10	11
Percy, nine shillings and six pence,	0	9	6
Peirmont, two pounds twelve shillings and one penny,	2	12	1
Plymouth, four pounds, twelve shillings and one penny,	4	12	1
Rumney, two pounds, six shillings and one penny,	2	6	1
Shelburne, eleven shillings and two pence,	0	11	2
Stratford, eighteen shillings and five pence,	0	18	5
Success, nine shillings and six pence,	0	9	6
Thornton, two pounds, eleven shillings and eight pence,	2	11	8
Trecothick, eleven shillings and two pence,	0	11	2
Warren, one pound, ten shillings and two pence,	1	10	2
Wentworth, one pound, eighteen shillings and one penny,	1	18	1
Maynesborough, nine shillings and six pence,	0	9	6
Paulsburg, nine shillings and six pence,	0	9	6
Whitefields, nine shillings and six pence,	0	9	6
Durand, eleven shillings and eleven pence,	0	11	11
Stewart-town, sixteen shillings and two pence,	0	16	2

Locations

Locations and Gores.

l. s. d.		l. s. d.
0 9 6	Thomas Chadbourne's, remitted,	0 0 9
2 6 12	Geffe's, four pence,	0 0 4
0 16 8	M. H. Wentworth's, one shilling,	0 1 0
0 11 5	Rogers' and Treadwell's, two shillings and ten pence,	0 2 10
3 6 1	Sterling's, one shilling and six pence,	0 1 6
3 18 0	Martin's, one penny,	0 0 1
0 10 9	Sherburne's and others', one shilling and four pence,	0 1 4
0 12 7	Phosphorus Dame's, four pence,	0 0 4
1 17 1	John Hurd's, four pence,	0 0 4
0 15 8	Stephen Holland's, four pence,	0 0 4
2 5 4	Archibald Stark's, one shilling and five pence,	0 1 5
0 12 4	Samuel Hale's, one shilling and four pence,	0 1 4
0 12 3	Francis Green's, one penny,	0 0 1
0 13 1	Samuel Stark's, one shilling,	0 1 0
1 10 0	Rindge's and Peirce's, one shilling and four pence.	0 1 4

104 13 7

And be it further enacted, That the said proportion shall be for all public taxes, until a new proportion shall be made and established; and that the treasurer, for the time being, issue his warrants accordingly.

Approved February 22, 1794.

AN ACT declaring the duty and defining the power of collectors of taxes. Passed Feb. 11, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That it shall be the duty of the collectors in every town or place in this State, seasonably to collect all the taxes assessed on such towns or places, for which they shall have sufficient warrants, under the hands and seal of the selectmen of such town or place; and to pay the same according to the directions given in such warrant.

Collectors seasonably to collect & pay agreeably to warrant.

And every collector to whom any list of taxes with a warrant in due form of law shall be committed to collect, shall give fourteen days notice to the inhabitants or residents taxed in such list, of the sum or sums at which they are assessed in such list, before he make any distress therefor; unless in cases, where such collector hath just reason to think any person is about moving out of his town or precinct. And upon the neglect or refusal of payment of any inhabitant

To give fourteen days notice before distress.

inhabitant or resident taxed in such list, the said collector is hereby empowered to distrain the goods or chattels of the person so neglecting or refusing.

Mode of
proceeding
in case of
distress.

And the said collector shall keep such distress the space of four days (unless the money for which such distress is taken shall be sooner paid) at the cost and charges of the owner thereof, and if the owner do not pay the sum or sums so assessed upon him, and the costs and charges which have already accrued, within the space of four days, the said collector shall proceed within forty-eight hours after the expiration of said four days, to sell at public auction, within the said town or place, the said distress; and notice of the place, day and hour of such sale, which shall be some time between ten of the clock in the forenoon and five in the afternoon, and a particular description of the goods and chattels so to be sold, and of the species, whether money or papers for which the distress is taken, shall be posted up in two public places in such town or place twenty-four hours before the time of sale. And a particular account in writing of the taxes of the delinquent, in what payable, the collector's fees, the charges of keeping and selling such distress, the amount of the sale of each article with the overplus, if any, after the taxes and all necessary charges are deducted, shall be delivered immediately upon such sale, to the former owner, or ready to be delivered to him on request made.

Delinquents
body liable.

And for want of goods or chattels, whereon to make distress, the said collector may take the body of the person refusing or neglecting to make payment as aforesaid, and him commit unto the common gaol in the same county, there to remain until the same be paid, or he be discharged therefrom by due course of law.

And in case any inhabitant or resident, shall, after the first day of April in any year, and before he shall have paid his taxes for that year, remove from the town or place where his invoice was taken, and his poll and estate lawfully taxed, into any other town or place in this State, the collector shall have the same remedy against the estate or body of such person, found in any part of this State, as he would by law have had in case such person hath not removed.

And

And be it further enacted, That all the powers vested by law in collectors of taxes, shall continue 'till they have collected all the taxes to them severally committed to collect.

Duration of collector's power.

Provided always, That in no case whatever, distress shall be made or taken of any person of his tools or implements necessary for his trade and occupation, nor of his arms or utensils of household, necessary for upholding of life, nor of bedding or apparel necessary for him or his family.

Necessary tools, &c. not liable to distress.

And be it further enacted, That when any collector shall take the body of any person, for want of goods or chattels, whereof to make distress, and shall commit him to prison, he shall give an attested copy of his warrant to the keeper of the prison, and thereupon certify under his hand, the sum or sums such person is taxed in his list or lists, and that he hath taken the body for want of goods or chattels whereon to make distress; and such attested copy and certificate therefore, shall be a sufficient warrant to require the prison-keeper to receive and detain such person in his custody, until he pay the sums so certified, costs of commitment and charges of imprisonment, or be otherwise thereof discharged by due order of law.

Collector to leave a copy of his warrant upon committing a delinquent

And be it further enacted, That when any owner or proprietor of any land or other real estate, shall remove out of the town or place where such land or other estate lies, after the same is assessed, to any other town or place in this State, or out of the limits thereof, and shall not have paid the sums assessed on him, and shall leave no personal estate whereon distress may be made; and when the owner of any buildings and improved lands liable to pay taxes, shall not reside in, or be inhabitant of the town or place in which such houses or lands lie, and no stock, corn or hay, or other personal estate can be found on such lands whereon to make distress for satisfying the taxes assessed thereon, and when any person assessed in any list of taxes, shall before payment happen to die, leaving no personal estate that can be come at, whereon to make distress, and no person interested in the same estate appearing to discharge the taxes, or when any inhabitant or resident shall conceal his goods and chattels, and his body cannot be taken; in each and every

Real estate liable to be sold for taxes for want of personal.

every of the cases aforesaid, the said collector shall and may at the expiration of three months from the time of his having received such list, proceed to advertise in such newspaper as the general court shall from time to time order, for six weeks successively so much of the real estate or buildings so circumstanced as aforesaid, as will pay the taxes assessed as aforesaid, and all reasonable charges; and in such advertisement shall be expressed the proprietor or owner of such estate, or such a particular description of the estate, in case the owner be not known, as the law requires in the case of the unimproved lands of non-resident proprietors; and in such advertisement shall be mentioned the day, hour and place of such intended sale, the hour shall be sometime between ten in the forenoon, and five in the afternoon; and at the place some public one in the town or place where the estate taxed lies; and a like advertisement shall be posted up in the town or place where the estate to be sold lies; and also an advertisement of the like tenor, in three towns or places adjoining, by the like space of time before the time of such sale; and in case the taxes and charges of advertising be not paid before the hour for sale, the collector may proceed to sell so much of the estate of the delinquent as will pay the taxes and all necessary charges; and shall execute a good and valid conveyance of the estate so sold, to the purchaser, in the same manner, and at the same time for redemption shall be allowed, as the law allows and provides in the case of the sale of the unimproved lands of non-resident proprietors for non-payment of taxes.

Mode of collecting taxes on the estates of non-residents.

And be it further enacted, That the mode of collecting taxes assessed on the unimproved buildings, and unimproved lands of non-resident proprietors, shall be as follows:

The collector upon receiving the list of such taxes shall forthwith forward to the person appointed by the State to receive the same, an attested copy of the list of taxes laid on the unimproved lands and buildings of non-residents within his town or place; and the said person whose duty it is, or shall be to receive the same, shall immediately advertise three weeks successively in the New-Hampshire Gazette, and also in

of the Boston newspapers, thereby informing all persons concerned, that he has received said lists, and requiring all such owners and proprietors to pay their taxes to him, or to the collector of the town or place wherein the lands lie, within eight weeks, notifying also that in default thereof, so much of the lands of each delinquent proprietor or owner, will, at the end of the said eight weeks be advertised for sale, as will pay said taxes and all legal charges; and the said person so advertising, is hereby authorized to receive the same, and the sum of five per cent for his trouble, for all sums by him so collected, and at the end of said eight weeks, he shall as soon as may be return a copy of said list to the collector from whom he received it, retaining in his hands the aforesaid attested copies, specifying in said copy to be returned, who have paid their taxes, and who are delinquent; and at the same time forward to the collector the money he hath collected, belonging to the said town or place, for the county taxes, and the residue thereof pay to the treasurer of this State, for the use thereof, taking the said treasurer's receipt therefor, in behalf of said town or place; after which the said collector shall advertise so much of the delinquent proprietor's or owner's land for sale, as will pay said taxes with necessary incidental charges, giving at least three weeks notice of the time and place of such sale, by publishing the same in the New-Hampshire Gazette, and also by posting up a like advertisement for the term aforesaid, in some public place in the town or place wherein the lands advertised for sale lie, and in the two adjacent towns.

And in case the said delinquent proprietor or owner shall neglect to pay the aforementioned taxes laid on his or their land, with the necessary incidental charges to the said collector before the sale, then the said collector shall, on the day appointed proceed to make sale at public auction, of so much of the delinquent's land, as will pay said taxes with the necessary incidental charges; provided the sale be made between the hours of ten of the clock in the forenoon, and six of the clock in the afternoon. And in case all the sales cannot be completed within the hours mentioned on said day, the said collector may adjourn

**Nonresidents
estates liable
to be sold.**

the sale (publicly proclaiming the same) from day to day, not exceeding three days. And the said collector is hereby authorized to execute a valid conveyance of the land so sold, to the purchaser.

Redemption

Provided nevertheless, and be it further enacted That each non-resident aforesaid, his heirs or assigns shall have the liberty of redeeming any of his land or buildings, sold as aforesaid, at any time within the term of one year from the sale thereof, as aforesaid, paying or tendering to the purchaser a sum amounting to the real value for which the lands or buildings were sold, with the interest therefor, until the time of payment or tender as aforesaid, together with the cost of the deed or deeds, and recording, if any such be given and recorded. The mode for redeeming such lands and buildings shall be the same as the law prescribes for the redemption of lands mortgaged.

The delinquents undivided right of lands held in common only liable.

And whereas it often happens that more than one person is interested in a right or proprietor's share of land, or some one lot, part of such share held in common and undivided, and one or more being owners of such land, shall pay his or their proportion of taxes, according to their interest; and some other owner or owners in the same land, being delinquent in paying their proportion of such taxes, shall occasion some part of such lands to be sold for the unpaid taxes:—Therefore,

Be it enacted, That the lands sold in such case shall be only the undivided right of the delinquent owner or owners.

And be it further enacted, That the form of the collector's deed shall be as follows, viz.

Collector's deed.

KNOW ALL MEN BY THESE PRESENTS, That I _____ in the county of _____ in the State of New-Hampshire, collector of taxes of, and for the _____ in said county, for the year _____ by virtue of sundry acts and laws of this State, relating to the levying and collecting taxes of non-resident proprietors of land in the several towns and places in the State, for and in consideration of _____ to me _____ hand paid before the delivery hereof by _____ given, granted and sold, and by these presents _____ give, grant, sell and convey unto him the said _____ his heirs and assigns forever _____ he the said _____ being

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due duly notified and held at at the dwelling-
house afore said, for the sale of lands in said
belonging to such non-resident proprietors or
owners as are delinquent in paying the said taxes
assessed thereon.

To have and to hold the said granted premises,
with the appurtenances thereof, to him the said
his heirs and assigns in fee simple forever. And I
the collector as afore said, do in my capacity
agree to and with the said his heirs and assigns,
to warrant and defend the said premises to him the
his heirs and assigns against the lawful
claims and demands of any person or persons whomso-
ever, saving and reserving only to the owner or pro-
rietor, their heirs or assigns, their right of redemp-
tion according to law, any thing in this deed to the
contrary notwithstanding.

In witness whereof, I do hereunto set my hand and
the day of Anno Domini,

Signed, sealed and delivered

in presence of

This act passed February 11, 1791.

AN ACT authorizing the collection of county taxes
which are or may be assessed upon non-resident
lands in unincorporated towns and places within
this State.

Passed Jan.
4, 1792.

WHEREAS in and by an act passed February seventh,
one thousand seven hundred and eighty nine, "for
"making and establishing a new proportion of the
"public taxes, among the several towns, parishes and
"places within this State; and to authorize the
"treasurer to issue his warrants for levying the same
"annually," the towns and places which are not
incorporated, are proportioned and set down in said
act, and no provision is made in and by said act where-
by county taxes can be collected,

Preamble.

Therefore for remedy whereof :

Be it enacted by the Senate and House of Representa-
tives in General Court convened, That the several
respective county treasurers within this State, be,

County
taxes.

and

and they hereby are authorized and empowered to collect county taxes in the same way and manner, as the State treasurer is in and by said act authorized to collect State taxes of unincorporated towns and places in said State; and that said county treasurers be, and they hereby are authorized to assess and collect all back taxes now due from any such unincorporated towns and places, in one tax bill in the same way and manner, as they are hereby authorized to collect taxes for any one year, any law, usage, or custom to the contrary notwithstanding.

Provided nevertheless, That this act shall be immediately published, but not take effect until the first day of September next.

This act passed January 4, 1792.

Passed Feb.
9, 1791.

AN ACT directing the proceedings against deficient collectors.

Deficient
collectors
liable.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any collector of taxes shall not pay to the State treasurer, county treasurer, town treasurer, selectmen, or any other person or persons all such sums of money as shall be committed unto him or them to collect, by the time prefixed in the warrant or warrants to such collector given, which time shall never be sooner than three months from the time of the delivery of such warrant, with a list of taxes, then, and in every such case the State treasurer, county treasurer, town treasurer, selectmen or other person or persons to whom any such sum is ordered to be paid, his or their successor or successors in office, be, and hereby are empowered by warrant or execution under his or their hands and seals directed to the sheriff or his deputy in the county where the same is to be executed, returnable by a certain day therein to be mentioned, which day shall in no case be less than sixty days, to cause all such sums of money to be levied by distress and sale of the real or personal estate of such deficient collector, turning the overplus, if any there be, and for the use of any such estate to imprison such deficient collector until the same be paid.

And be it further enacted, That the treasurer, or other person issuing any such warrant or execution, on return of the same unsatisfied, or satisfied in part only, may issue an alias for such sum as may remain due on the return of any former one, and so on as often as occasion shall require.

And in case such warrant or execution be issued either by the State or county treasurer, and the sheriff can find no estate real or personal, or not sufficient whereon to levy and satisfy the same, and the body of such deficient collector cannot be found within his precinct, or in case the body shall be committed, and the money be not paid within three months from the time of commitment, in either of the cases aforesaid, the treasurer issuing such warrant or execution, on being certified by the sheriff that no sufficient estate can be found, whereon to levy, and that the body cannot be found, or that the body hath been imprisoned three months, and the money hath not been paid as aforesaid, shall notify the selectmen of the town or place on whom the said tax was assessed thereof, who are hereby authorized and empowered immediately to assess the inhabitants of such town or place the sum so due, and collect the same as other taxes and assessments are collected, and pay the same to the treasurer to whom the same is due; and in case the sum for which such warrant or execution issued be not paid within six months from the time of such notice being given as aforesaid, then the said treasurer shall, and may issue his warrant or execution in manner aforesaid, against the inhabitants of such town or place for all such sums as are due and unpaid upon the former warrant or execution, and may add thereto the legal fees for the former warrant or execution and the service, travel and poundage thereon.

And be it further enacted, That when any execution or warrant of distress issued by the State treasurer, county treasurer, town treasurer, selectmen or other persons having lawful authority to issue the same shall be levied on the lands, tenements or hereditaments of any deficient collector, the officer levying the same shall proceed and sell so much thereof at public auction to the highest bidder, as shall be sufficient to satisfy his said execution or warrant, with all legal

Alias ex-
tents.

Inhabitants
liable if the
collector be
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Estate of col-
lectors taken
in execution
to be sold at
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legal costs, giving thirty days notice of the time and place of sale, by posting up advertisements therefor, at some public place in the town or place where such estate lies, and in two of the adjoining towns, and in such case the sheriff shall specify in his advertisement the amount of the sum to be satisfied by such sale, and the species, whether money, certificates, State notes or other thing in which the same may be paid; and in all cases the sheriff shall receive in payment of the sum mentioned in any such execution or warrant of distress, the same as the treasurer will receive of him, as described in such execution or warrant of distress.

Selectmen
may issue ex-
tents against
collectors for
State and
county tax
where there
is danger of
their abscon-
ding.

And be it further enacted, That in all cases when the time shall be elapsed at which any collector shall be ordered to pay his tax to the State, or county treasurer, and the selectmen shall be of opinion that such collector hath collected the several sums mentioned in his list of the persons in such lists named, and that there is danger of such collector's absconding, or being unable to pay when called upon by the treasurer, to whom the same is payable; in every such case the selectmen may issue their execution or warrant of distress against such collector for all such sums as he may be in arrear to the State or county treasurer, or both, in the same manner as they may for any town tax; and the proceedings in such case shall be the same in all respects.

Provided always, That the said selectmen shall in such case indemnify such collector for all damages that he may sustain, by reason of any extents that may issue against him by the State or county treasurer for the same tax; and the State or county treasurer upon being notified by the selectmen of their having issued such execution as aforesaid, shall not issue any execution against such deficient collector, but shall in case of non-payment for the space of three months after such notice, issue his execution or warrant of distress against such selectmen, and in their default of payment, against the inhabitants in the same manner as he is authorized to do in the case of collectors being unable to pay.

And be it further enacted, That in all cases when the name of any collector, the date of the warrant given

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given him, the sum he is ordered to pay, and the time when he is to pay the same shall be returned to any treasurer, before he issue any extent for the same tax; it shall be the duty of the treasurer to issue his extents for such delinquent tax against such collector or collectors, and against no other person or persons, except in cases as before mentioned, when such collectors are unable, or in cases where such treasurer hath received notice as aforesaid, that the selectmen have already issued execution or warrant of distress therefor; and in all cases when the name or names of any collectors shall not be returned to the treasurer, it shall be his duty in the first instance to issue his execution or warrant of distress for the unpaid tax of such town or place against the selectmen of that year, and against no other persons; and in case such selectmen be unable, or in case return be made by any sheriff, on any execution issued by any State or county treasurer, that no selectmen were chosen in such town or place that year, then such execution shall issue against the inhabitants of such town or place.

Treasurers
to issue ex-
tents against
collectors.

And be it further enacted, That in all cases when execution or warrant of distress issues against any selectmen, or against any town or place, in consequence of any default or neglect of any collector to pay his taxes according to the directions, such selectmen, or such town or place in every such case shall have their remedy against such deficient collector by action, and shall recover against him all such sums as they may have paid, or have been compelled to pay on his account, with damages for the extraordinary trouble they may have been at in paying the same.

Selectmen,
&c. being
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cient collec-
tors.

And in all cases where any town or place may be compelled to pay any sums, or be put to any trouble or charges by reason of the neglect or misconduct of any selectmen, they shall have their remedy against such selectmen.

This act passed February 9, 1791.

AN ACT declaring the mode of conveyance by deed.

Passed Feb.
10, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That all leases, estates

Estates at
will.

estates, interest of freeholds, or term of years, or any uncertain interest of, in, or out of any messuages, lands, tenements or hereditaments made and created by livery and seisin only, or by parole, and not in writing signed by the parties so making or creating the same, or by their agents, thereunto lawfully authorized by writing, shall have the force and effect of leases, or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force, any consideration for making any parole leases or estates, any former law to the contrary notwithstanding.

And no leases, estates or interests, either of freehold or term of years, or any uncertain interest of, in, or out of any messuages, lands, tenements or hereditaments, shall be assigned, granted or surrendered unless by deed or note in writing, signed by the party so assigning, granting or surrendering, or their agents, thereunto lawfully authorized and empowered by writing, or by act and operation of law.

Estates in
trust.

And be it further enacted, That all grants and assignments, and all declarations and creations of trusts or confidences, of any lands, tenements or hereditaments, shall be manifested and proved by some writing signed by the party, who is by law enabled to declare such trust, or by his last will in writing, else they shall be utterly void and of none effect.

Provided always, That where any conveyance shall be made of any lands, tenements or hereditaments, which a trust or confidence shall arise or result from the implication or construction of law, to be transferred or extinguished by an act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect, as if the same would have been if this act had not been made, any thing therein contained to the contrary notwithstanding.

Contracts to
be in writing

And be it further enacted, That no action shall hereafter be maintained upon any contract or sale of lands, tenements or hereditaments, or any interest therein, or concerning them, unless the agreement upon which such action shall be brought, or some memorandum thereof, be in writing and signed by the parties to be charged

charged therewith, or signed by some other person hereunto lawfully authorized by writing.

And be it further enacted, That all deeds or other conveyances of any lands, tenements or hereditaments Deeds. being in this State, signed and sealed by the party granting the same, having good and lawful authority hereunto, and signed by two or more witnesses, and acknowledged by such grantor or grantors before a justice of the peace, and recorded at length in the registry of deeds in the county where such lands, tenements or hereditaments lie, shall be valid to pass the same, without any other act or ceremony in law whatever, and no deed of bargain and sale, mortgage or other conveyance, in fee simple, fee-tail or for term of life, or any lease for more than seven years from the making thereof, of any lands, tenements or hereditaments in this State, shall be good and effectual in law to hold such lands, tenements or hereditaments against any other person or persons, but the grantor or grantors, and their heirs only, unless the deed or deeds thereof, be acknowledged and recorded in manner aforesaid.

Provided nevertheless, That when any grantor or grantor shall go beyond sea, or be removed out of this state, or be dead, before the deed or conveyance by How proved after the grantor's death. him or her signed be acknowledged as aforesaid, in every such case, the proof of such deed or conveyance made by the oath of one or more of the witnesses, whose names may be thereto subscribed before any court of record within this State, shall be equivalent to the grantor's acknowledgment thereof before a justice of the peace.

And where the witnesses to any deed or other conveyance shall be dead before the same shall be acknowledged, and the grantor or grantors are also dead, the proof of the hand writing of the grantor or grantors, and of the subscribing witnesses thereto made by the oath of two witnesses before any court of record within this State, shall be equivalent to the acknowledgment of such grantor or grantors before any justice of the peace as before mentioned.

Provided That it shall be made to appear to the satisfaction of the justices of the court before whom such proof shall be made, that the grantee or grantees

in said deed or conveyance mentioned, have, in the life time of the grantor or grantors, taken actual possession of the real estate conveyed by such deed, and that such grantee or grantees, or some person or persons claiming under him, her or them, have continued such actual possession quietly to the time when such application shall be made to such court, for the purposes aforesaid.

How proved
where the
grantor refuses to acknowledge.

And be it further enacted, That if any grantor or lessor of any lands, tenements or hereditaments refuse to acknowledge any deed of bargain and sale mortgage or other conveyances as aforesaid, by him or her signed, it shall be lawful for such grantee or lessee to put the same on record without any acknowledgment, and such deed so recorded in the registry of deeds, shall be deemed sufficient caution to all persons against purchasing, attaching or levying execution on the same land, for the space of sixty days from the time of recording; and shall during that time, be good and effectual in law, to all intents and purposes as though such deed or other conveyance were duly acknowledged.

And any justice of the peace and of the quorum after such refusal, at the request of the grantee or lessee, his heirs, executors, administrators or assigns may issue a summons for such grantor or lessor to appear before him, at a certain place and time in said summons mentioned, to hear the testimony of the subscribing witnesses to said deed or other conveyance and upon return made to the said justice, written or an attested copy of said summons, and signed by any constable, sheriff or deputy-sheriff, that the original was delivered to the person to be summoned, or left at his usual place of abode, at least seven days before the day appointed for examining the witnesses to said deed or other conveyance as aforesaid, the said justice may proceed, whether the said grantor or lessor shall attend the examination or not, to take the proof of the execution of such deed or other conveyance and if one or more of the subscribing witnesses to such deed or other conveyance, shall make solemn oath before the said justice, that he or they saw the said grantor or lessor voluntarily sign and seal the said deed, and that he or they subscribed his or the

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names as witnesses thereto at the same time, such proof and a certificate thereof, under the hand of the said justice, wherein the presence or absence of the grantor or lessor at such examination shall be particularly noted, shall be equivalent to the acknowledgment of the grantor before any justice of the peace.

Provided always, That nothing in this act contained, shall be construed or deemed to bar any widow of the grantor or lessor of any lands, tenements or hereditaments from her dower or right in and to such lands, tenements or hereditaments, who did not legally join with her husband in such deed of bargain and sale, mortgage or lease, or otherwise lawfully bar or exclude herself from such dower or right.

Not to bar dower.

And be it further enacted, That when any deed of bargain and sale, mortgage or other conveyance of any lands, tenements or hereditaments, shall be made by virtue of any power of attorney or instrument authorizing any person to execute such deed or other conveyance, the said power or instrument being recorded in the office where the deed made by virtue thereof by law should be recorded, such power having been signed, sealed and acknowledged before a justice of the peace, by the party having lawful right to make the same, a copy thereof from the records shall be read in evidence when the original cannot be produced, in the same manner as the copy of the deed made thereby is admitted in evidence.

Executed by attorney.

And be it further enacted, That all deeds of bargain and sale, mortgage or other conveyance of real estate, heretofore made and executed according to former laws and usage within this State, shall be valid and effectual.

Executed according to former laws, valid.

And be it further enacted, That any purchaser or purchasers of any real estate within any of the counties in this State, may record his or their deed or deeds in any county, besides recording it in the county where such estate lies; and in case of misfortune to the original deed, or destruction of the records in the county where such estate lies, then an attested copy of such deed or deeds, produced from any of the other county records, shall be allowed as authentic as copies from the recorder's office in the county where such estate is situate.

May be recorded in two counties.

This act passed February 10, 1791.

AN

Passed Feb.
16, 1791.

Redemption
of mortgaged
estates.

AN ACT prescribing the time and mode of redeeming real estate mortgaged, or conveyed by deed of bargain and sale, with defeazance.

BE it enacted by the Senate and House of Representatives in General Court convened, That all real estate conveyed or pledged by mortgage or deed of bargain and sale, with defeazance, may be redeemed by the mortgager or vender, his heirs, executors, administrators or assigns, on payment of all the sums of money, to secure the payment of which such mortgage or deed was made, agreeably to the tenor and effect of the condition in such mortgage contained, or in such writing of defeazance expressed, or on performance of the condition on which such real estate was mortgaged or conveyed, or in case any action has been brought and final judgment rendered thereon, then on payment of such sum or sums of money as the damages and costs in such judgment mentioned, with the fees and charges on any writ of seisin that may have issued thereon, with interest for such damages and costs to the time of redemption shall amount unto, or in case any such action may be pending, then on payment of all such costs as may have arisen on any such suit, in addition to the payment and performance of the condition in such mortgage or writing of defeazance contained and expressed; provided such payment or performance in all the cases before mentioned, shall be made, or tender thereof made to the mortgagee or vendee, his heirs, executors, administrators or assigns, within one year after such mortgagee or vendee, or the person claiming under him, shall have entered into and have taken peaceable possession of such real estate for the condition broken, within one year after such person shall have been peaceable and continued actual possession of such estate, after the condition broken, whether such possession in either case shall have been gained by process of law, or by peaceable entry without such process.

And in all cases where payment shall be made or tendered as aforesaid, or the condition on which such real estate was conveyed shall be performed, then the same mortgage or deed of bargain and sale, with defeazance, shall be utterly void; and the mortgagee or

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or vendee, his heirs, executors, administrators or those claiming under him, at the request of the mortgager, his heirs, executors or administrators, and tender of his reasonable charges therefor, shall thereupon repair to the office where such mortgage or deed of conveyance is recorded, and shall acknowledge such satisfaction and payment, to be entered in the margin of the record of such deed or mortgage, and shall sign the same, which shall be sufficient evidence of the discharge and release of such mortgage or deed, and perpetually bar all actions brought thereupon, or shall otherwise make and execute a good and sufficient quitclaim and release to the estate mortgaged or conveyed, and shall acknowledge the same before a justice of the peace; and on refusal or neglect for the space of ten days so to do, he shall be liable to make good all damages for want of such discharge or release, to be recovered by special action on the case, with treble costs of suit.

Mortgages satisfied to be discharged.

This act passed February 16, 1791.

AN ACT in addition to an act, prescribing the time and mode of redeeming real estate mortgaged or conveyed by deed of bargain and sale, with defeazance.

Passed Jan. 16, 1795.

Whereas the remedy by action against the mortgagee, vendee, his heirs, executors or administrators, or those claiming under him prescribed by said act, when the condition of such mortgage deed, or deed of defeazance hath been performed, may by reason of the insolvent condition of such mortgagee, vendee, or person claiming under him, or by reason that his person or estate may not be come at, so that the same may be attached to respond the damages in such case sustained, prove ineffectual;

Preamble.

For remedy whereof,

BE it enacted by the Senate and House of Representatives in General Court convened, That whenever the condition of such mortgage deed, or such deed of defeazance hath been, or shall hereafter be fulfilled, or tender of the performance thereof hath been, or shall

shall

**Mortgager
may petition
the justices
of S. C.**

**The adverse
party to be
served with
a copy.**

**An attested
copy to have
the same
force in law
as a quit-
claim.**

shall be duly made, it shall and may be lawful for the mortgager, his heirs, executors, administrators, or assigns in case of the neglect, or refusal of the mortgagee, vendee, or person claiming under him, to acquire knowledge satisfaction and payment of such mortgage or deed, or otherwise to make and execute a deed of quitclaim and release thereof, as prescribed in said act to petition the justices of the superior-court of judicature, or any one of them, stating the conveying of such estate, the condition and the performance of the same, or the tender of performance thereof, whereupon the justices of said court, or any one of them as aforesaid, shall direct that the adverse party be served with a copy of said petition and order thereon or that the same be left at his last and usual place of abode, fourteen days prior to the sitting of said court then next to be holden in said county, where such mortgaged or conveyed estate lies, or in case that the adverse party be not an inhabitant of this, or an adjoining State, then that the substance of said petition and order thereon, be published in such public newspaper, and so many times successively as the said court or justices shall direct; and upon proof of the fulfilment of said order, the said court shall proceed to hear said petition, and if it shall appear that the condition of such mortgage deed, or that such deed of defeazance hath been fulfilled or performed or that a tender thereof hath been duly made; the said court shall adjudge and decree the performance or tender thereof as aforesaid; an attested copy whereof being recorded in the office of the registry of deeds in the county where such mortgaged or conveyed estate lies, shall have the same force, effect and validity in law, that a quitclaim and release of such mortgaged or conveyed estate by the mortgagee, vendee, or person claiming under him, duly executed and recorded might or could have; and whenever a tender shall be proved as aforesaid, the sum tendered shall be brought into court and delivered to the clerk thereof to the use of such mortgagee, vendee, or person claiming under him as aforesaid, and in case any issue in fact upon said petition shall be had, the same shall be tried by jury, and cost may be granted, or otherwise, as the

court,

court, all circumstances considered shall judge to be just and equitable.

The foregoing act was returned by his Excellency the Governor with his objections thereto, and afterwards re-passed by two thirds of both branches of the legislature.

This act passed January 16, 1795.

AN ACT for the convenient and speedy assignment of dower.

Passed Feb. 9, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That when the heir or other person having the freehold, shall not within one month after demand made, assign and set over to the widow of the deceased, her dower or just third part of, and in all houses, lands, tenements and hereditaments, whereof she is dowable at the common law, to her satisfaction, according to the true intentment of law; then such widow may sue for and recover the same by writ of dower, to be therefor brought against such persons as have, or claim to have right as aforesaid in said estate, in manner and form following:

Widows may sue for their dower

State of New-Hampshire. } To the Sheriff of our said
R ss. } county of his under
sheriff or deputy,

Greeting.

COMMAND B. D. of G. addition that instantly and without delay render to C. D. who was the wife of E. D. late of M. addition deceased, her reasonable dower, which happens to her of a certain messuage or tenement with the appurtenances situate in G. aforesaid in the possession of the said C. D. which was in the seisin and possession of her said husband E. D. and whereof he was seized in his demesne as of fee during the coverture, and whereof she hath nothing as she saith, and the said C. D. complains, that the said B. D. hath deforced her thereof, and unless the said B. D. shall so do, then command the said B. D. to appear before our justices of our next court of common pleas to be holden at on then and there to shew cause why she said C. D. her reasonable dower as aforesaid doth

doth not render, and have you there this writ
with your doings therein. Witness
at the day of in the year of our
Lord, B. G. Clerk.

and may re-
cover dam-
age

and seisin.

And be it further enacted, That upon judgment be-
ing given for any woman to recover her dower in
any estate of houses and lands and other heredita-
ments, which were her husband's, reasonable damage
shall also be assigned to her from the time of the de-
mand made, and a writ of seisin shall issue in manne-
and form following, viz.

State of New-Hampshire, } *To the Sheriff of our said*
R. ss. } *county of his un-*
der Sheriff or deputy
Greeling.

WHEREAS C. D. widow who was the wife of
E. D. late of B. in addition deceased, before our ju-
tices of our court of holden at for our
county of aforesaid, on the day of
did recover her seisin against of B. aforesaid
addition of one third part of a certain messuage
tenement, &c. with the appurtenances, situate in
aforesaid, in possession of the said as her dower
of the endowment of the said her certain hus-
band, by our writ of dower, whereof she hath no
thing. Therefore we command you that to the said
C. D. full seisin of one third part of the aforesaid mes-
suage, tenement, &c. with the appurtenances, you
cause to be had without delay, to hold to her in fev-
ralty by metes and bounds. We command you also
that of the goods or chattels of the said with
your precinct, you cause to be paid and satisfied unto
the said C. D. at the value thereof in money, the
sum of for damages awarded her by our said
court, for her being holden and kept out of her dower
aforesaid, and costs expended on the suit, with
two shillings more for this writ; and thereof also
satisfy yourself your own fees: And for want of
goods or chattels of the said A. B. to be by him
shewn unto you, to take his body and commit him
to the keeper of our gaol in aforesaid, within
the said prison, whom we likewise command to re-
ceive the said B. and him safely to keep, until he pay
unto the said C. D. the full sum abovementioned
and

and make return of this writ, and how you shall have executed the same, to our next court of to be holden at for our said county of on the day of next. Witness E. G. Esq. at the day of in the year of our Lord, F. A. Clerk.

And where no damage shall be awarded, the writ to run only for seisin and cost of suit.

And the sheriff or his deputy, to whom such writ is directed, shall cause her third part, or dower in such estate to be set off, by three freeholders of the neighbourhood, upon their oaths, who shall be sworn before a justice to set off the same equally and impartially, without favor or affection as convenient as may be; which oath every justice of the peace is hereby empowered to administer; a return made to the sheriff by any two of them agreeing, shall be sufficient, provided all the three shall have attended the business.

And be it further enacted, That of inheritances that shall be entire, where no division can be made by metes and bounds, or where a woman cannot be endowed of the premises, she shall be endowed thereof in a special and certain manner, as of the third part of the rents, issues, or profits thereof, to be computed and ascertained in manner as aforesaid. And no woman that shall be endowed of any lands, tenements or other inheritances, as aforesaid, shall commit or suffer any strip, or waste thereupon, but shall maintain the houses and tenements, with the fences and appurtenances thereof, with which she shall be so endowed, in good repair during the term, and leave the same so at the expiration thereof, and shall be liable to action for any strip or waste by her done, committed or suffered.

This act passed February 9, 1791.

AN ACT for the settling of testate estates. BE it enacted by the Senate and House of Representatives in General Court convened, That every person lawfully seized and possessed of any estate in lands, tenements or hereditaments within this State, of the

E E

age

Service of the writ of seisin.

How dower shall be assigned where the estate cannot be divided.

Passed Feb. 3, 1789.

Persons seized of lands, &c. may dispose of the same by will.

age of twenty-one years and upwards, and of sound mind, shall have power to give, devise and dispose of the same, as well by his last will and testament in writing, as by any other act duly executed, to and among his or her children, or others, as he or she shall think fit. And that all devises and bequests of any estate in lands, tenements and hereditaments shall be in writing, and sealed by the party devising the same, and signed by him, or by some person in his, or her presence, and by his, or her express direction, and shall be attested and subscribed in the presence of the said devisor, by three, or more credible witnesses, or else shall be void and of none effect.

Posthumous children intitled to a share,

And be it further enacted, That when any child shall happen to be born after the death of the father without having any provisions made in his will, every such posthumous child shall have right and interest in his or her father's estate, in like manner as if he had died intestate, and the judge of probate shall issue his warrant as in case of intestates, to assign to such posthumous child a share in said estate, equal to what he or she would have inherited, had the father died intestate, and the same shall be taken in proportion from the devisees and legatees who own the estate by virtue of such will.

and also such as have no legacy in their parents will.

And be it further enacted, That any child, or children, or their legal representatives in case of their death, not having a legacy given him or them in the will of their father or mother, shall have a portion of the estate of the testator assigned unto him, her or them, as though such parent had died intestate. Provided such child, children, or grand children, have not had an equal proportion of the deceased's estate bestowed on him, her or them in the deceased's lifetime. And when any person, having a devise of real or personal estate, shall die before the testator, and leave lineal descendants, such descendants shall take the estate devised in the same manner the devisee would have done, had he or she survived the testator. And the widow may waive the provision made for her in the will of her deceased husband, and have her dower assigned her in the same manner as though he had died intestate; in which case she shall have no benefit from such provision, unless it appears to have been

been the testator's intention, that such provision should be in addition to her dower.

And be it further enacted, That no will or instrument in writing hereafter offered for probate, purporting a disposition of real and personal estate, not being executed with the formalities aforementioned, shall be approved or considered of validity to pass or convey any such estate or estates whatever.

No will to be approved unless.

And be it further enacted, That all such estate, real and personal, that is not devised or bequeathed in the last will and testament of any person hereafter to be proved, shall be distributed in the same manner as if it were an intestate estate, and the executor or executors shall administer the same accordingly.

Real and personal estate not devised to be distributed.

And be it further enacted, That any executor or executors of the will of any person deceased, knowing of their being so named, neglecting for more than thirty days next after the decease of the testator, to cause such will to be proved, before the judge of probate for the county where the deceased person last dwelt, or to present the said will to the said judge, and in writing to declare his, her or their refusal of the trust (without just excuse made to, and accepted by the said judge for such delay) shall forfeit the sum of five pounds a month for such neglect, from and after the expiration of the said thirty days; to be recovered by action of debt in the inferior court in the same county, one moiety for him or them that shall sue for the same, and the other for the use of the legatees named in the same will. And upon any such refusal, the judge of probate shall commit administration of the estate of the deceased, with the will annexed, unto the widow or next of kin to the deceased, or one or more of the devisees; or in case of their refusal to one or more of the principal creditors, as he shall think fit.

Executors to cause probate of wills to be made.

And be it further enacted, That every executor or executrix named in any will hereafter to be proved, and taking upon him, or herself that trust by proving the same, shall give bond to the judge of probate, with sufficient surety or sureties, to return upon oath, a true and perfect inventory of the estate of the testator, into the probate office, and to render an account of his or her proceedings thereon, in the same manner

Executors to give bond.

manner as administrators are by law obliged to do, unless such executor or executors are residuary legatees, in which case bond may be given by him, her or them, to pay the debts and legacies of the testator; and in case any executor or executors shall neglect or refuse, for the space of twenty days, to give bond as aforesaid, the judge of probate may commit administration of the estate of the testator with the will annexed, to some other person, in like manner as he may grant the same when the executor refuses the trust: And where divers persons are named executors in any will hereafter to be proved, none shall intermeddle and act as such, but those who give bond as aforesaid.

Executors becoming insane, &c. the judge to grant letters, &c. to other persons.

And be it further enacted, That when any executor of any last will and testament, shall become insane, or otherwise incapable of discharging the trust, the judges of probate within their respective counties observing the rules aforesaid, are hereby authorized to grant letters of administration, with the will annexed, to such person as to the said judge shall seem meet. And the administrator, thus appointed, shall have the same power and authority to administer the estate of the deceased, not administered by such former executor, and be subject to the same duties, as if said executor were actually dead. And when a feme sole shall, with one or more persons be appointed executrix, and after such appointment, shall, during the life of her co-executor marry, such marriage shall not make her husband an executor in her right; but shall operate as an extinguishment of such woman's power, and the other executor or executors may proceed in discharging the trust, in the same manner as if the woman were dead. And the executor of an executor shall not in consequence thereof become the executor of the first testator; but in every such case administration may be granted (if circumstances require) upon the goods and estate of the first testator unadministered, with the will annexed to such person or persons as the judge of probate may think fit (he observing the rules for granting administration as above mentioned) any law, usage or custom to the contrary notwithstanding.

And be it further enacted, That when and so often

as any devisee (or his or her guardian) who holds any real estate in partnership with any person or persons, by force of any last will and testament, shall make application to the judge of probate of wills in the county where the will was proved, for a division thereof, which shall and may be lawful for such judge to order the whole of the real estate so devised (or that part of it, the partition whereof is requested) to be divided to and among the devisees according to the will of the testator, by five or three discreet freeholders, to be appointed by the said judge, notice being first given to all concerned, to be present at the making such partition, if they see cause: Which partition or division being made and returned to the judge, under the hands of the committee, or the major part of them, upon oath, to their fidelity and impartiality therein, and by him approved, shall be valid in law to all intents and purposes; unless upon the appeal of any person dissatisfied with the partition so made, the same should be reversed or altered by the superior court of judicature.

And be it further enacted, That when any real estate devised by will, lies in common and undivided with other real estate, it shall and may be lawful for the judge of probate to order and direct the freeholders aforesaid, first to make partition between the estate devised, and any other land or real estate, lying in common therewith, in the same way and manner, as is provided for dividing intestate estates, from any other with which they may lay in common; provided, that no partition shall be made, when the proportion of the devisees, or any of them, shall be disputable and uncertain. Provided also, that where any of the interested are minors, or persons non compos mentis, or otherwise incapacitated to take care of their estates, or out of the State, guardians shall be first appointed for such minors, persons non compos mentis or otherwise incapacitated, and some disinterested person shall be appointed by the judge to represent and act for such absent party.

And be it further enacted, That the judge of probate before he allow the account of any executor relating to his executorship, shall cause the heirs of such estate to be notified, in such manner as he shall think most

The judge of probate, upon application, may order a division to be made.

When real estate lies in common, the judge may order a partition to be made.

Accounts not to be allowed until notice be given thereof.

Co-executors remedy against each other.

Executors or administrators exempted from personal arrests.

Executors to pay debts in specie.

Right of appeal.

most proper, of the time and place for examining and allowing such account.

And be it further enacted, That any executor being a residuary legatee, may bring his action of account against his co-executor or executors of the estate of the testator in their hands; and may also sue for, and recover his equal and rateable part thereof; and any other residuary legatee shall have like remedy against the executors.

And be it further enacted, That all writs of attachment and execution, shall run only against the goods or estate of the party deceased, in the hands of the executor, and not against his body; nor shall any executor be held to special bail upon mean process, nor his own proper goods or estate be seized, or his person be arrested or taken in execution for the debts or legacies of the testator; but upon a suggestion of a waste, and return made by the sheriff nulla bona, or devastavit, in which case a scire facias shall be issued out of the clerk's office of the same court against such executor; and scire feci being returned, if the executor shall make default of appearance, or coming in, shall not shew sufficient cause to the contrary, execution shall be adjudged and awarded against him of his own proper goods and estate to the value of such waste, where it can be ascertained, and otherwise for the whole sum recovered, and for want of goods or estate against his body.

And be it further enacted, That every executor shall make payment of the debts and legacies of the testator in specie, if such he hath, as assets in his hands; and if he hath not the same, he shall expose the estate to the creditors and legatees, to take their satisfaction thereof at their election; the value of such estate to be ascertained by appraisers mutually chosen and sworn. And where judgment and execution shall be awarded for any legacy, or for a debt due from the testator, the same proceedings shall be had thereon, as the law does, or may hereafter direct for levying and satisfying executions in other cases.

And be it further enacted, That any person aggrieved at, or dissatisfied with any decree, sentence or order of any judge of probate, by virtue of this act made, shall have right to appeal therefrom, to the superior

superior court of judicature, provided such appeal be claimed within sixty days next after the making such decree, sentence, order, or denial, and giving bond in a reasonable sum with sufficient sureties, to prosecute said appeal with effect, and to pay costs in case such decree, sentence, order or denial shall be confirmed.

And be it further enacted, That if any such decree, sentence, order or denial, shall, upon such appeal, be reversed or altered by said superior court, cost shall be taxed for the appellant.

And be it further enacted, That in case of an appeal being taken, the person appealing shall immediately give notice in one of the New-Hampshire newspapers, of the appeal having been claimed and allowed, and of the term at which said appeal is to be entered for trial.

And be it further enacted, That the act entitled, "An act relating to executors and administrators," be, and hereby is repealed: Provided nevertheless, that all proceedings already had by virtue of said act, shall be good and valid, and all orders and decrees of any judge of probate, in pursuance thereof, shall be carried into effect in the same manner, as though said act had not been repealed.

Provided always, That nothing in this act contained, shall be construed to affect nuncupative wills; as provided for by a law of the late province.

This act passed February 3, 1789.

Decrees, &c. reversed—cost to be taxed for the appellant.

In case of an appeal, notice to be given.

Repealing clause.

AN ACT relative to the attestation of wills.

BE it enacted by the Senate and House of Representatives in General Court convened, That no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of thirty pounds, which is not proved by the oaths of three or more witnesses, who were present at the making thereof; nor unless it be proved, that the testator at the time of pronouncing the same, did bid the persons present, or some of them, bear witness that such was his will, to that effect; nor unless such nuncupative will be made in the time of the last sickness of the deceased, and

Passed Feb. 16, 1791.

Nuncupative wills.

and in the house of his or their habitation or dwelling; or where such person hath been resident for the space of ten days or more next before the making of such will: except where such person was surprised or taken sick, being from his own home, and died before he returned to his dwelling.

Testimony
to prove
them to be
reduced to
writing.

And be it further enacted, That after six months passed from the speaking the pretended testamentary words, no testimony shall be received to prove any nuncupative will, except said testimony, or the substance thereof be committed to writing within six days after making said will.

Probate of
nuncupative
wills.

And be it further enacted, That no letters testamentary or probate of any nuncupative will, shall pass the seal of any court until fourteen days at least after the decease of the testator; nor shall any nuncupative will be received to be proved, unless process hath first issued to call in the widow or next of kindred to the deceased, to the end they may contest the same if they please.

No written
will to be re-
voked but by
writing.

And be it further enacted, That no will in writing concerning any goods and chattels, or personal estate shall be repealed or revoked, nor shall any clause, devise, or bequest therein be altered or discharged by any words, or will by any word of mouth only, except the same be in the life time of the testator committed to writing, and read to him, and be proved to be done, by three witnesses at least.

Provided always, Any soldier being in actual military service, or any mariner or seaman, being at sea may dispose of his moveables, wages and personal estate, as he might have done before the making of the act.

And for removing doubts in the attestation of wills.

Devisee at-
testing, the
devise void,
but he ad-
mitted to
prove the
will.

Be it further enacted, That if any person shall attest the execution of any will or codicil, to whom any beneficial devise, legacy, estate, interest, gift, appointment of, or affecting any real or personal estate, other than and except charges on lands, tenements and hereditaments for the payment of any debts or debts, shall be thereby given, or made, such devise, legacy, estate, interest, gift or appointment shall, so far only, as concerns such person attesting the execution of such will or codicil, or any person claiming

claiming under him, be utterly null and void ; and such person shall be admitted as a witness to the execution of such will or codicil, notwithstanding such devise, legacy, estate, interest, gift or appointment mentioned in such will or codicil.

And be it further enacted, That when any lands, tenements or hereditaments, are in any will or codicil charged with the payment of debts, and any creditor whose debt is so charged, hath attested the execution of such will or codicil, such creditor notwithstanding, shall be admitted and deemed a legal witness to the attestation of such will or codicil.

Creditor attesting admitted to prove the will.

And be it further enacted, That when any person hath attested the execution of any will or codicil, to whom any legacy is thereby given, whether charged upon lands, tenements or hereditaments or not, and such person having been paid, or having accepted, released, or having refused to accept, upon tender thereof made, such person shall be admitted and deemed a legal witness to the execution of such will or codicil.

Legatee being paid or refusing his legacy admitted to prove the will.

And be it further enacted, That in case of such tender and refusal as aforesaid, such person shall not be entitled to such legacy or bequest, but be barred therefrom. And in case of such acceptance as aforesaid, such person shall retain to his own use the legacy or bequest so paid and accepted, notwithstanding such will or codicil, shall afterwards be adjudged or determined to be void for any defect whatever.

Refusal of a legacy shall bar the legatee.

And be it further enacted, That in case any such legatee as aforesaid, who hath attested the execution of any will or codicil, shall have died in the life time of the testator, or before he shall have received or released the legacy or bequest so given him ; and before he shall have refused to receive such legacy or bequest, on tender thereof made ; such legatee shall be deemed a legal attesting witness to the execution of such will or codicil.

Legatee attesting and dying considered as a legal witness.

Provided always, That the credit of every witness attesting any will or codicil, in any of the cases mentioned in this act, and all circumstances relating thereto, shall be subject to the consideration and determination of the court or jury before whom any such witness shall be examined, or his testimony or

Credibility of witnesses to be considered.

Devisee or legatee attesting shall not after examination receive any compensation.

attestation made use of, in like manner as the credit of witnesses in all other cases ought to be considered of and determined.

And be it further enacted, That no person to whom any beneficial estate, interest, gift or appointment, shall be given or made, which is hereby enacted to be null and void as aforesaid; or who shall have refused to receive any such legacy or bequest, on tender made as aforesaid, and who shall have been examined as a witness concerning the execution of such will or codicil, shall after he shall have been so examined, demand or take possession of, or receive any profits or benefits of, or from any such estate, interest, gift or appointment so given or made to him, in or by any such will or codicil, or demand, receive or accept from any person or persons whatsoever, any such legacy or bequest, or any satisfaction or compensation for the same, in any manner, or under any color or pretence whatsoever.

This act passed February 16, 1791.

Passed Feb.
3, 1789.

Descent of
intestate es-
tates.

AN ACT ordering the descent of intestate estates, and empowering the judge of probate to settle the same accordingly.

BE it enacted by the Senate and House of Representatives in General Court convened, That when any person shall die seized of lands, tenements or hereditaments, within this State, not by him devised, the same shall descend in equal shares among his children, and such as legally represent such of them as may be dead. And where there are no children or child of the intestate, the inheritance shall descend equally to the next of kin in equal degree, and those who represent them. No person to be admitted as a legal representative of collaterals, beyond the degree of brothers and sisters children.

And when any of the children of an intestate die before twenty-one years of age, and unmarried, such deceased child's share shall descend among the surviving brothers and sisters, and such as legally represent them; but if such child die, after having arrived to the age of twenty-one years, unmarried and intestate,

intestate, in the life time of the mother, she shall inherit equally with every brother and sister.

Provided always, That in case any person's dying intestate, after marriage or arrival to twenty-one years of age, without lawful issue, living the father, the whole estate of such intestate shall go to the father, reserving to the widow as is herein after provided. And in case the mother be living, and no father at the time of such decease, she shall be entitled to an equal share of the estate with the brothers and sisters of the intestate and their legal representatives.

And be it further enacted, That when any person shall die, possessed of any chattels or personal estate not bequeathed, the same shall be distributed in the manner real estates descend by this act.

Provided nevertheless, That such chattels, or personal estate shall stand chargeable with the payment of the debts and funeral charges of the deceased; and after payment thereof, the judge of probate shall decree one third part of the surplusage (if any there be) to the widow of the deceased forever, unless he died without issue, in which case she shall have one half thereof forever. And where the personal estate shall be insufficient to pay the said debts and funeral charges, the widow shall be entitled to her apparel, and such other of the personal estate, as the judge of probate shall think necessary, according to her quality and degree. And the real estate shall stand chargeable with the debts of the deceased over and above what the personal estate shall be sufficient to pay.

And be it further enacted, That the widow of any deceased person, shall in all cases, be intitled to her dower in his real estate (where she shall not have been otherwise endowed before marriage) and may recover the same as the law directs.

And be it further enacted, That after the decease of any person intestate, the judge of the probate of wills for the county wherein such person was last an inhabitant, shall grant administration of the intestate's estate unto the widow, or next of kin to the intestate (upwards of twenty-one years of age) or to both, as the said judge shall think best, within thirty days. And an inventory of all the estate of the deceased, shall be taken within three months, by three suitable persons

Distribution of personal estate.

Chattels and personal estate chargeable with debts.

Personal estate insufficient, the real estate to be chargeable.

The widow entitled to dower in the real estate.

Administration how to be granted.

persons appointed for that purpose, and sworn before the judge, or a justice of the peace, to their fidelity and impartiality therein.

Administra-
tion to be
granted to
creditors, in
case.

Administra-
tors to give
bond.

And after the expiration of thirty days from the death of any person intestate, if the widow or next of kin neglect to apply for administration, the said judge shall cause them to be cited to take the same, and if they neglect or refuse to administer accordingly, he shall grant administration to one or more of the principal creditors, or others on their refusal, as he shall think proper. And every administrator shall before he or she enters upon the execution of that trust, give bond to the judge of probate, with sufficient sureties in a reasonable sum, upon condition among other things, to return to the said judge a true inventory of the deceased's estate upon oath, within three months from the date of the bond, to administer said estate according to law, and to render to the judge of probate a just and true account of administration within one year. And after payment of debts, funeral expenses and charges incurred in settling any estate (to be allowed by the said judge) he shall cause the residue to be divided, and partition thereof to be made among the widow, children and grand children, or heirs, as this act directs, unless any of them have had estate of the intestate in his lifetime, or been advanced in settlement, which shall be taken into consideration and allowed for a share, and deducted from it according to the value thereof.

Deeds of
land, &c.
when char-
ged how to be
deemed, &c.

And any deed of lands or tenements made for love or affection, or where any personal estate delivered to a child shall be charged in writing, or by his or her order, or a memorandum made thereof, or delivered expressly for that purpose, before two witnesses, who were bidden to take notice thereof, the same shall be deemed and taken as an advancement to such child or children to the value thereof, within the intent of this act.

Five freehol-
ders to make
distribution.

And the judge of probate shall appoint five freeholders to make distribution of the real estate of an intestate, which being made and returned to the judge under their, or the major part of their hands, upon oath to their fidelity and impartiality therein, and accepted and allowed by the said judge, shall be valid.

And

And the dower of widows in intestate estates that are solvent, after the expiration of their term therein, shall be distributed in like manner among the heirs.

Provided nevertheless, That the surplusage of every intestate estate, after the payment of debts and charges as aforesaid, shall be subject to the support of each child, until he or she shall arrive to the full age of seven years, and after that age, each child shall receive his or her support out of his or her particular share; the account of said support to be allowed by the judge of probate. And every one to whom any share of any intestate estate shall be allotted, shall give bond to the judge to pay to the administrator, his or her rateable proportion of any debts, that shall afterwards be made to appear against said estate, and of the charges of administration, and maintenance and support of the children under seven years of age.

Each child to be supported out of surplusage 'till seven years of age, after that, out of his or her share.

Provided further, and it is enacted, That where any real estate of an intestate cannot be divided among all the children, or their legal representatives, without great prejudice to, or spoiling the whole, and being so represented and made to appear to the judge of probate, he may decree the whole to the oldest son, if he will accept it, or to the oldest and any other of the sons who shall agree to accept it, or to any one or more of the sons successively, and upon their refusal, or if there be no sons, to the oldest daughter, or upon the oldest and any other of the daughters who will accept it, or on any one or more of them successively; and in case the intestate left no issue, upon any one or more of the collaterals in equal degree, preference being given to the male heirs; he, he or they paying to their co-heirs their proportionable shares of the true value thereof, upon an impartial appraisement of the same, to be made by three freeholders, under oath, appointed for that purpose by the judge of probate, or giving good security to pay the same at such periods as the judge shall limit, with interest 'till paid.

Real estate may be decreed to the oldest son when it cannot be divided without damage.

And be it further enacted, That the judge of probate may, upon application of any heir to any intestate estate, order his or her dividend or proportion of the real estate to be distributed and set off to such heir, by a committee of five freeholders as aforesaid,

The judge may order the dividend of any heir to be set off.

he

he or she giving bond with sufficient sureties, to pay his or her rateable part of the debts, charges of administration, and maintenance of children under seven years of age, as aforesaid.

When any tract of land, &c. is of greater value than either party's part, the same may be assigned to one of the parties.

And be it further enacted, That when any tract of land, messuage, and other tenement, shall be of greater value than either party's part or share in the estate to be divided, and cannot be sub-divided, or part thereof assigned to one, and part to another (without injury or inconvenience) the same may be settled or assigned to one of the parties, such party paying such sum or sums of money, to the party or parties, as by means of the assignment, shall have less than their share of the real estate, as the committee appointed to make partition shall award.

Real estate in common or undivided how to be severed or divided.

And be it further enacted, That the respective judges of probate within this State, be, and hereby are directed and empowered, when they make out their warrants for the division of the real estate of any person dying intestate, to and among the heirs, or for assigning the widow's dower where such estate, or any part thereof, lies in common or undivided with the real estate of any other person, to direct the committee named in such warrant, first to sever and divide the intestate's estate from the estate with which it lies in common as aforesaid; the said committee to give timely notice to all parties interested to be present, if they see cause; and such division so made and accepted by the judge, and recorded in the probate office for the same county, shall be binding upon all parties interested.

Guardians to be appointed

Provided that where any minors, persons *non compos*, or otherwise incapacitated to take care of their estates, are interested in either of the estates, guardians shall be appointed over them. And if any person interested is out of this State, the judge shall appoint some discreet person to represent and act for such absent party, before such division is made.

Before partition, the parties to be notified.

Provided also, That before the order for such partition or severance be issued, it be made to appear to the judge of probate, that the several persons, interested in such estate, if living within this State, or the attorney of such as are absent and have attornies within the State, have been notified of such partition, and have had

had opportunity to make exceptions to the same. And be it further enacted, That when division of any intestate estate, or partition of such estate, lying in common with the estate of any other person, shall be caused to be made by any judge of probate, according to the method before prescribed, and any of the parties interested shall neglect or refuse to pay their just proportion of the charge which may attend such division or partition, it shall and may be lawful for the judge to issue a warrant of distress, against any delinquent or delinquents interested as aforesaid, provided an account of such charge be first laid before the judge, and the just proportion of each party interested, be by him settled and allowed, they having been notified to be present at such settlement and allowance.

Partition being made, & either person refusing to pay his proportion, the judge may issue his warrant of distress.

And be it further enacted, That every administrator shall be held to account with the judge of probate, for the personal estate of the deceased, as the same shall be appraised, unless the judge shall order the same, or any part thereof, to be sold at public auction, or private sale, as he shall think will best serve the interest of all concerned; and the administrator shall account for the same accordingly.

Administrators accountable for personal estate.

And be it further enacted, That when any man and his wife, shall be seized of any real estate in her right, in fee simple, and issue shall be born alive of the body of such wife, that may or might inherit the same, and the wife die, the husband shall have and hold such estate during his life, as tenant by curtesy; any thing in this act to the contrary notwithstanding.

The husband to hold by curtesy during his life.

And be it further enacted, That when any person shall die intestate, having estate in several counties in this State, administration thereof shall be granted of the whole, by the judge of probate in the county where the deceased was last an inhabitant.

Where administration shall be granted.

And in case of a person's dying intestate, who was not an inhabitant of this State, but possessed of real or personal estate within the same, at that event, administration of the same shall be granted by the judge in the county where the greatest part thereof shall happen to be.

Heirs or guardians to be notified before licence is granted for sale.

And be it further enacted, That when application shall be made to any judge of probate for licence to sell any intestate estate, or any part thereof, for the payment

payment of the demands against the same, before he grants such licence, he shall cause the heirs to said estate, or their guardians to be notified thereof, and at what time and place they may be heard concerning the same. And if they will give bond with sufficient sureties for the payment of said demands, licence shall not be granted; otherwise the judge shall grant licence to sell so much as to him shall appear necessary, at public auction. And the administrator or administrators shall, upon taking the licence, or previous to the sale, take the following oath:

Oath.

I *A. B.* do solemnly swear, that in disposing of the estate of *C. D.* late deceased, or such part thereof as I have licence to sell, I will use my best judgment in fixing on the time and place of sale, and will exert my utmost endeavors that the same shall be sold in such manner, as will be of the greatest advantage to the heirs of said estate, and that without any sinister or selfish views whatever.

And if such oath be taken before a justice, the administrator shall return a certificate thereof from the justice to the judge, before he allows the administrator's account.

Persons alienating any goods, &c. to be chargeable.

And be it further enacted, That if any person or persons, before taking administration of any intestate estate, shall embezzle or alienate any of the goods or chattels belonging to such estate, every such person shall stand chargeable, and be liable to the actions of creditors or other persons grieved, as being executors in their own wrong, to double the amount or value of the articles so alienated or embezzled.

Persons suspected of embezzlement to be sworn.

And be it further enacted, That each judge of probate in his county, be and hereby is fully empowered to call before him, and to examine upon oath, any person suspected and complained of by any executor or administrator, heir, creditor, legatee or other person having lawful right or claim to the estate of any person deceased, to have concealed, embezzled or conveyed away any of the money, goods or chattels of the deceased, for discovery of the same. And if the person suspected and complained of, refuses to appear before the said judge, or appearing, refuses to be examined, or to answer interrogatories upon oath, respecting said estate, it shall and may be lawful for

and

and the said judge is hereby empowered to commit such person so refusing, unto the common gaol of the county, there to remain until he or she shall consent to be examined, and answer interrogatories as aforesaid, or be released by the complainant, or by order of the superior court of judicature.

And be it further enacted, That each judge of probate within this State, in his county, shall have power and is hereby authorized to grant administration de bonis non, when an administrator shall be dead or absconded, or become non compos mentis, or be otherwise incapacitated to carry on the administration, not having settled the estate.

The judge of probate to grant administration de bonis non.

And be it further enacted, That each judge of probate, before he makes a decree of allowance of the account of any administrator of an intestate estate, shall cause a major part of the heirs to such estate, or their guardians, to be notified that such account is exhibited, and when and where they may be heard thereon.

Heirs or guardians to be notified when acc'ts are exhibited for allowance.

And be it further enacted, That in case any creditors to any estate, shall neglect to exhibit his or her demand against said estate, to the executor or administrator, within the term of two years next after proving the will, or taking administration, if such creditor is an inhabitant of this State, or within three years, if living out of this State, such demand shall be extinguished, and the creditor totally barred from recovering the same—saving to persons in captivity, a further allowance of one year after the impediment is removed.

Creditors excluded who do not bring in their claims.

And be it further enacted, That where two or more persons administer on any intestate estate, and one or more of them take the greatest part of the estate unto his, her or their hands, and refuse or neglect to pay the debts and funeral charges of the intestate, or refuse to account with the other administrator, he or she may bring an action of account against the other administrator or administrators, and recover his or her proportionable part of such estate.

One administrator may bring an action of account against another.

And be it further enacted, That nothing in this act shall affect any settlement or distribution of any estate heretofore made within this State.

Former settlements of any estate not to be affected by this act.

And any person aggrieved at, or dissatisfied with

G G

any

Right of appeal. any decree, sentence or order of any judge of probate, by virtue of this act made, shall have right to appeal therefrom, to the superior court of judicature: Provided such appeal be claimed within sixty days next after the making such decree, sentence, order or denial, and giving bond in a reasonable sum, with sufficient sureties, to prosecute said appeal with effect; and to pay costs, in case such decree, sentence, order or denial, shall be confirmed.

Any decree reversed, cost to be taxed for the appellant. *And be it further enacted,* That if any such decree, sentence, order or denial shall, upon such appeal be reversed or altered by the supreme court of probate, cost shall be taxed for the appellant.

Notice to be given of an appeal. *And be it further enacted,* That in case of an appeal being taken, the person appealing shall immediately give notice, in one of the New-Hampshire newspapers, of the appeal's having been claimed and allowed, and of the term at which said appeal is to be entered for trial.

Administrators exempted from personal arrest. *And be it further enacted,* That all writs of attachments and executions shall run only against the goods or estate of the party deceased, in the hands of the administrator, and not against his body, nor shall any administrator be held to special bail upon mean process, nor his own proper goods or estate be seized, or his person arrested or taken in execution for the debts of the intestate, but upon suggestion of a waste and return made by the sheriff, nulla bona, or devaluation, in which case a scire facias shall be issued out of the clerk's office of the same court against such administrator; and scire feci being returned, if the administrator shall make default of appearance, or coming in, shall not shew sufficient cause to the contrary, execution shall be adjudged and awarded against him of his own proper goods and estate, to the value of such waste, where it can be ascertained, and otherwise for the whole sum recovered, and for want of goods or estate against his body.

Administrators to pay debts in specie. *And be it further enacted,* That every administrator shall make payment of the debts of the intestate in specie, if such he hath, as affers in his hands, and if he hath not the same, he shall expose the estate to the creditor, to take his satisfaction thereof at his election, the value of said estate to be ascertained by appraisers

appraisers mutually chosen and sworn. And where judgment and execution shall be awarded for any debt due from the intestate, the same proceedings shall be had thereon, as the law doth or shall hereafter direct, for levying and satisfying executions in other cases.

And be it further enacted, That the several judges of probate in their respective counties in this State, when and so often as there shall be occasion, be and hereby are empowered to allow of guardians, that shall be chosen by minors of fourteen years of age, and upwards, and to appoint guardians for such as shall be within that age, taking sufficient security of all such guardians, for the faithful discharge of their trust according to law, and to account, either to the judge or minor, when such minor shall arrive at full age, or at such other time as the judge upon complaint to him made, shall see cause.

Judge of probate to appoint guardians.

And be it further enacted, That the act, entitled, Repealing an act for the settlement and distribution of the estates of intestates, be, and hereby is repealed.

Repealing clause.

Provided nevertheless, That all proceedings already had, by virtue of said act, shall be good and valid, and all orders and decrees of any judge of probate in pursuance thereof, shall be carried into effect in the same manner as though the same had not been repealed.

All former proceedings to be good and valid.

This act passed February 3, 1789.

AN ACT in addition to an act entitled, "An act ordering the descent of intestate estates, and empowering the judges of probate to settle the same accordingly."

Passed Jan. 4, 1792.

WHEREAS no provision is made in and by said act, for the speedy settlement of the estates of such persons as had deceased, and whose estates were then under the administration of their executors or administrators, and not completed. And it being necessary that a time should be limited for creditors to exhibit their claims against such estates :

Preamble.

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That no action shall

shall

Time limited for creditors to exhibit their claims.

shall be commenced or sustained for the recovery of any debt or other demand by contract, or breach of covenant, due from any testator or intestate (who at the time of his decease was a citizen of this State) against his executor or administrator, by any citizen or citizens of this State, after the expiration of two years, nor by any other person or persons, after the expiration of three years from and after the passing of this act.

This act passed January 4, 1792.

Passed, Dec. 13, 1792.

AN ACT in addition to an act, entitled, "An act for settling testate estates," and in addition to an act entitled, "An act ordering the descent of intestate estates," and empowering the judge of probate to settle the same accordingly.

An executrix or administratrix marrying, shall not make her husband an executor in her right.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any executrix or administratrix hereafter appointed, shall marry during the continuance of her trust, such marriage shall not make her husband an executor or administrator in her right, but shall operate as an extinguishment of such woman's power. And the judge to whom the probate of the will or granting the administration shall belong, shall grant administration of the goods not administered, or with the will annexed, if circumstances require it, to the husband of such executrix or administratrix, or to such person as would be entitled to the same in case of her death.

This act passed December 13, 1792.

Passed Jan. 22, 1790.

AN ACT for the filing and recording of wills proved without this State, and for the taking of affidavits in writing, for the probate of wills in certain cases.

A copy of a will filed & recorded to have force & effect.

BE it enacted by the Senate and House of Representatives in General Court convened, That where the copy of any will, which has been proved and allowed in any probate court in any of the United States or in any foreign State or Kingdom, shall be directed to be filed and recorded in any probate court in the

State,

State, pursuant to the laws thereof, the filing and recording thereof shall be of the same force and effect as the filing and recording of an original will, proved and allowed in the same court of probate, and the said judge may thereupon proceed to take bond of the executor or executors, or grant administration of the said testator's estate, lying in this State, with the will annexed, and settle the said estate in the same way and manner, as by law he may, or can upon the estates of testators, whose wills have been duly proved before him.

And be it further enacted by the authority aforesaid, That when the executor, or any other person interested in a will, that has been proved and allowed in a court of probate, in any of the United States, or in a court of probate in any other State or Kingdom, pursuant to the laws of such State or Kingdom, shall produce a copy of such will, with a copy of the probate thereof, duly authenticated, unto any judge of probate in any county of this State, where the testator had estate, real or personal, whereon the said will may operate, and shall in writing desire the same may be filed and recorded in the probate office, in the same county, pursuant to this statute, the said judge shall assign a time and place for taking the same into consideration, and shall cause notice thereof to be made in some public newspaper in this State, three weeks successively, thirty days at least before the time assigned, to the end, that any person may appear and shew cause against the filing and recording of the same.

An executor producing a copy, &c.
The judge to assign a time and place for consideration.

And if at the time assigned, no objection is made, or none in the judgment of said judge sufficient to prevent it, the said judge may cause the same copy to be filed in the registry of the court of probate, and cause the same to be recorded in said office; saving always an appeal, to any person apprehending himself injured thereby, to the supreme court of probate as in other probate matters.

And be it further enacted by the authority aforesaid, That when an original will shall be offered for probate before any court of probate in this State, and the witnesses thereto live out of the State, or more than thirty miles distant, or by reason of age or infirmity, disposition

Witnesses living out of the State, depositions to have force and effect,

disposition of body, are unable to appear and give evidence before the court, in every such case, the deposition of such witness in writing, taken before any person or persons duly authorized by *dedimus potestatem* from such probate court, shall have the same force and effect as though the witness was present and testified *viva voce*, before the court.

Proviso.

Provided always, That before any will shall be proved and allowed upon the evidence of such affidavits, the same notice shall be given as the law in other cases for the probate of wills requires, that any person interested in the same will, may have an opportunity of being present and offering his reasons why the same should not be allowed. And the parties shall have the same right of appeal, in the case before mentioned, as in other cases before the probate court.

This act passed January 22, 1790.

**Passed Feb.
15, 1791.**

**Judge to
grant licence
to sell real
estate.**

AN ACT empowering the judge of probate to grant licence to sell real estate in certain cases.

BE it enacted by the Senate and House of Representatives in General Court convened, That where the personal estate of any person deceased, shall not be sufficient to answer the just debts, which the deceased owed, and legacies given, the judge of probate is hereby empowered to license and authorize the executors or administrators of such estate to sell so much of the real estate of the deceased, as will satisfy the just debts, which the deceased owed at the time of his death, and legacies bequeathed by his last will and testament. And every executor or administrator being so licensed and authorized, shall and may by virtue of such authority make and execute in due form of law, good and valid conveyance of the estate so sold to the purchaser or purchasers, their heirs and assigns forever.

**Judge may
give leave to
sell, &c.**

And be it further enacted, That when it shall appear to the judge of probate on any application for leave to sell any such real estate, for either of the causes before mentioned, that a part of such real estate will be sufficient for said purposes; and that sell-

ing

ing such part and not the whole, would be very injurious to the persons interested in such estate, the said judge notifying all concerned to appear and shew cause to the contrary, and upon no sufficient cause to the contrary being shewn, shall and may give leave to sell the whole.

And the said judge may previous to granting such leave, take bond of the executor or administrator, to account for the proceeds of such sale; and after such debts or legacies are paid, the residue shall be to the use of those in whom the property of such real estate so sold was. And where such persons are minors, the said judge may order the executor, administrator or guardian of such minors, to put such money out at interest for the benefit of such minors, taking sufficient security for the same.

Must take bond.

Minors, the money to be put to interest.

And be it further enacted, That no administrator shall be obliged to account with the judge of probate for the appraised value of any personal estate, if such administrator shall produce the personal estate so appraised.

Administrator not to account for personal estate if he produce the same.

This act passed February 15, 1791.

AN ACT for the equal distribution of insolvent estates.

Passed Feb. 11, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That when the estate of any person deceased shall be insolvent, and insufficient to pay all the just debts which the deceased owed, the estate shall be distributed among the creditors in proportion to the sums to them respectively due; saving that all rates and taxes, and debts due to the State, and debts due for the last sickness, and the necessary charges for the burial of the deceased, shall be first paid; and the order of such payment shall be, first, the expenses of the funeral, then the charges of the last sickness, then the rates and taxes, and lastly, the debts due to the State.

Estate to be distributed.

And the executor or administrator of any such insolvent estate, shall, before the payment of any debts (except as aforesaid) represent the condition and circumstances of such estate, as far as hath come to his

To be represented insolvent, &c.

**Advertise-
ment, &c.**

**Time allow-
ed for exhib-
iting claims.**

**Widow's
dower ; re-
version to be
sold.**

his knowledge, unto the judge of probate, and if it shall appear to the judge, that such estate is insolvent, he shall appoint two or more persons to receive, examine and adjust all claims of the creditors to any such estate, and the commissioners shall cause the times and places of their meeting to receive, examine and adjust such claims, to be made known by posting up an advertisement or notification thereof, in the town or place where the deceased last dwelt, and in the two adjacent towns, and also in the shire town or towns in the same county ; or shall cause the same to be printed in some public newspaper, that shall be most likely to give information to all concerned ; or if the judge should, considering the circumstances of any such estate, and the situation of the creditors thereto, order all the notice before mentioned, or any further and additional notice to be given, then the said commissioners shall notify in such manner as the judge shall order, which manner of notifying shall always be expressed in the commission of insolvency that shall issue to the commissioners ; and six months, or such further time or times (not exceeding eighteen months in the whole) as the said judge, considering the circumstances of any such estate, may order, shall be allowed the creditors to any such estate to bring in and support their claims or demands against such estate, to the commissioners and at the end of the time limited for bringing in claims, the said commissioners shall make report to the judge, and present on oath a list of all the claims by them allowed, and shall in such report particularly state how they have notified the creditors and shall produce to the judge satisfactory evidence of their having so notified ; and the judge shall allow them a reasonable sum for their services, which shall be paid out of the estate ; and if there be any widow, her dower in the houses and lands shall be set off according to law, and the real estate with the reversion of her dower (if the judge shall think meet for the benefit of the creditors, that the reversion of the widow's dower should be sold with the rest of the real estate) shall be sold according to law, unless any creditor will take it at the appraisal. And the allowance made to the commissioners as aforesaid,

the

the costs and charges of administering, rates and taxes due from such estate, debts due to the State, and debts due for the last sickness and funeral charges as before provided, and such reasonable sum out of the personal estate, as the judge may think proper to allow to the widow for her support, being deducted, the judge shall order and decree the residue of such estate to be divided among the creditors, in proportion to their demands, allowed and adjusted as aforesaid, or otherwise by judgment at law, and in such decree the judge shall declare and state that the creditors have been notified according to his order; and such decree shall always forever after, be considered sufficient evidence of that fact in all matters or causes where the same may be drawn in question; and if the reversion of the widow's dower was not sold with the other real estate, it shall at the expiration of her term, be sold and divided as before mentioned, and the like shall be done with any estate of the deceased, that may come to the hands of the executors or administrators at any time after the first distribution.

Widow's allowance, and estate to be divided.

And be it further enacted, That all demands against any insolvent estate, not exhibited to the commissioners, whilst the commission of insolvency is pending, shall be forever barred, unless the creditor can find some estate of the deceased not inventoried or accounted for by the executor or administrator; in which case, after allowing and deducting such costs and charges, as to the judge may appear reasonable, if the estate so found and obtained be sufficient, the said creditor shall first receive a dividend, so as to make him equal with the other creditors to said estate, if there shall be so much found and remaining after deducting costs as aforesaid, and the overplus (if any there be) shall be divided in due proportion among all the several creditors to said estate.

Demands not exhibited to be barred unless, &c.

And be it further enacted, That if any creditor shall exhibit his claim or demand against any such insolvent estate, to the commissioners as before mentioned, and the said commissioners shall reject it wholly, or shall not allow the whole sum demanded, such creditor conceiving himself aggrieved by such judgment and determination of the commissioners, may at the time

Demands not allowed, right of appeal.

**Declaration
to be filed,
&c.**

**Notice to the
executor or
administra-
tor.**

**Pleadings,
&c.**

**If the credi-
tor fails to
enter his ac-
tion costs al-
lowed.**

of such commissioners returning and making their report to the judge as before mentioned, or within twenty days afterwards, if such demand so rejected in whole amounted unto six pounds, or if the sum allowed by the commissioners of any demand exhibited is six pounds less than the sum demanded, appeal from the judgment of the commissioners to the superior court next to be holden in the same county, signifying such his desire to the judge of probate in writing, and filing in the probate office a declaration of his demand against such insolvent estate, drawn up with the same legal certainty as is required in prosecuting demands in the courts of law, and the judge shall cause the executor or administrator to be served with a copy of such declaration, and of the appeal made by such creditor; and the creditor may at the court appealed to, on the first day of the sitting of said court, enter his action as plaintiff against the executor or administrator, and shall produce an attested copy of such his declaration, and the certificate of the judge of probate, that notice hath issued to the executor or administrator thereon; and upon such declaration, such pleadings may be had, and the matter issued in the same way and manner as though such action had been commenced in the ordinary and usual way, and had been entered at said superior court by way of appeal from the court of common pleas, and the said superior court shall certify the judge of probate, of the judgment they shall give thereon; and if something, but not more than the commissioners shall have allowed, shall in such judgment be given to the creditor, the court shall not tax costs for the creditor, but may tax costs for the executor, or administrator, if all circumstances considered they think it proper; and if the creditor shall fail to enter his action in manner and season before directed, his demand shall be forever barred, and in case any thing was allowed by the commissioners, the same shall be struck off the list, and the court may, on the complaint of the executor or administrator, tax and allow him costs, and issue execution therefor; or in case judgment be for the executor or administrator on trial or otherwise, after the entry of said action, he shall be allowed his costs, and shall have execution therefor, as in

other

other cases, and any other of the creditors shall and may, if the said superior court think proper, be admitted to defend against such action, in the name of the executor or administrator, if the executor or administrator declines, or is himself a creditor. And the judgment of the said superior court shall be considered as the just claim of such creditor. And if any executor or administrator shall be of opinion, that the commissioners have allowed a demand against the estate, which ought not to be allowed, or have allowed a larger sum than was justly due, such executor or administrator shall at the time of the report being returned to the judge, signify his objection to the creditor (if present) or to his agent (if present) in writing, which writing shall be filed in the probate office; and if neither the creditor nor his agent be present, or if the creditor fail to prosecute his demand against such insolvent estate at the next superior court in the same county, in the manner before directed, in case of a creditor's appealing from the judgment of the commissioners, then the claim allowed by the commissioners and objected to by the executor or administrator as aforesaid, shall be struck off the list of claims; but if the same, or as much as was allowed by the commissioners be allowed by the judgment of the superior court, then such creditor shall have his full costs taxed, and there shall be in either case no review allowed.

Judgment to be considered as the just claim.

Creditor failing to prosecute, his claim to be struck off.

And the creditor and executor, or administrator may agree before the judge of probate to submit any dispute between them to referees, in which case their report being returned to the said judge, and accepted by him, shall be final between the parties.

May refer.

And be it further enacted, That no action against any executor or administrator of any estate represented insolvent, shall be sustained, except for debts due to the State, debts due for rates and taxes, last sickness and funeral charges; unless the executor or administrator having objection to the claim upon which the action is brought, consents to have the same settled by course of law, in which case the judgment of the court shall settle and adjust such claim, and the same shall be final.

No action against executor to be sustained.

And all actions brought against any executor or administrator,

To be discontinued.

Not to be brought within a year.

administrator, before any estate is represented insolvent, shall, when such estate is represented insolvent, be discontinued, unless the executor or administrator consent to have a trial at law as before mentioned.

And no action shall in any case be commenced against any executor or administrator, until the end of one year after such executor or administrator shall have proved the will, or taken out letters of administration.

This act passed February 11, 1791.

Passed Feb. 4, 1789.

Preamble.

AN ACT for the more easy partition of lands, and other real estate.

WHEREAS the partition of lands and other real estate, is often prevented or delayed by reason that infants, or others under disability of making partition by mutual consent and deed are interested; or that the parties concerned are numerous, live remote from each other, and some of them are sometimes unknown

For remedy whereof:

Judge of probate empowered to cause a partition of lands, &c.

BE it enacted by the Senate and House of Representatives in General Court convened, That upon application of any person or persons, interested with others in any lot, tract or parcel of land, or other real estate (by themselves, their agents, attorneys, guardians) to the judge of the probate of wills in the county in which such land or real estate, or the greater part thereof lies, the said judge be, and hereby is empowered to cause partition of such land or other real estate to be made, and the share or shares of the party or parties applying, to be divided and set off from the rest, by a committee of five freeholders, to be appointed by the said judge; which division and partition being made, and returned to the said judge, under the hands of the said committee, the major part of them, upon oath to their fidelity and impartiality therein, and approved and allowed by him, and recorded in the probate office for such county shall be valid and effectual, and binding to all parties.

And be it further enacted, That when any tract of land, messuage, or other real estate shall be of greater value than either party's share or proportion in the

estate

estate to be divided, and cannot without great prejudice or inconvenience be subdivided, and part assigned to one, and part to another, the same may be settled or assigned to one of the parties, he or she paying to the other party or parties, such sum or sums of money, as by means thereof, shall have less than his, her or their share of said estate, as the committee shall award, or giving bond with sufficient sureties, to pay the same within such time as the said judge of probate shall limit, with interest 'till paid.

Land, messuage, &c. may be assigned to one of the parties when it cannot be divided without damage.

And be it further enacted, That no judge of probate within this State, shall proceed to order such partition, until it shall be made to appear to him, that the several parties interested have had due notice of such application (by being personally served with a copy of the petition for the partition, or left at the last place of their abode, or that the substance of said petition had been inserted in one or more of the New-Hampshire newspapers, three weeks successively) and have had opportunity to make their objections to the granting such order, and guardian or guardians shall have been appointed according to law for any minors, persons *non compos mentis*, or otherwise incapacitated to take care of their estates, who are interested, if within this State; and an agent or agents, appointed for such as are not within, or inhabitants of this State; to be advising on his or their behalf, in the making such partition, And the committee appointed to make such partition, shall, before their doing it, cause all concerned, or their guardians or agents, to be seasonably notified of the time when they shall proceed to make such partition, that so (if they see meet) they may be present and advising therein.

Partition being made, not to be altered until notice is given, &c.

And be it further enacted, That when partition shall be made as aforesaid, if any one or more of the parties interested shall neglect or refuse to pay his, her or their just proportion of the charges attending such partition, it shall and may be lawful for the judge of probate who ordered the same; and he is hereby authorized to cause the same to be levied by his warrant of distress, provided an account of such charges be laid before him, and the just proportion of the persons interested, settled and allowed by him, they having

Either party refusing to pay, &c. the same to be levied by warrant.

having been duly notified to be present at such settlement and allowance.

Right of appeal, &c.

Provided nevertheless, That any party aggrieved at any order, decree or denial of any judge of probate relative to the premises, may appeal therefrom to the supreme court of probate for this State, provided that such appeal be claimed and taken within sixty days from the passing such order, decree or denial, and bond given in a reasonable sum with sureties to prosecute said appeal with effect, and to pay the appellee his reasonable costs in case the said order, decree or denial be affirmed; and in case the sentence, order, decree or denial, be reversed or altered, the said supreme court of probate shall tax costs for the appellant.

Repealing clause.

And be it further enacted, That an act entitled "An act for a more easy and expeditious method of making partition of land, or other real estate held in common;" and an act entitled "An act in addition to, and amendment of, "An act for the more expeditious method of making partition of land, and other real estate held in common," be, and hereby are repealed.

This act passed February 4, 1789.

Passed Feb. 9, 1791.

Judge of probate to appoint guardians for idiots.

What the selectmen are to do.

AN ACT for the relief of idiots and distracted persons.
BE it enacted by the Senate and House of Representatives in General Court convened, That it shall and may be in the power of the judge of probate in each county, upon request made by the relations or friends of any idiot, non compos, lunatic or distracted person, or the overseers of the poor in such town where the said idiot or distracted person lives, or is an inhabitant, to direct the selectmen of such town to make inquisition thereinto; and if the person said to be an idiot or distracted, shall be so determined by the judge of probate in such county wherein such idiot, or distracted person lives, the said judge of probate shall appoint some suitable person or persons to be guardian or guardians of such idiot, or non compos, directing and empowering such guardian or guardians to take care as well of the person as estate, both real and

kept out of his just demand. And the estate of such lunatic, non compos or distracted person, shall on execution, be liable to be taken to satisfy the final judgment which shall be recovered in such case, as it might if no such disability had ever happened.

This act passed February 9, 1791.

AN ACT to authorize the Superior Court to empower guardians to sell the real estate of their wards.

Approved
Dec. 24,
1795.

BE it enacted by the Senate and House of Representatives in General Court convened, That the Superior Court of said State, be, and hereby is authorized to empower the guardian of any minor, idiot, lunatic or distracted person, to sell and convey the real estate of his ward whenever the sale thereof shall be necessary to the support, or conducive to the interest of his said ward. Provided that a petition for that purpose shall be entered by such guardian at the said Court whilst sitting in the county where said real estate shall be.—And no judgment shall be rendered on said petition before there shall be one continuance thereof, and public notice of the same given by said Court to all persons concerned :—That such guardian shall be under oath (which oath shall be administered by the clerk of said Court) that he will sell said estate in such a manner as in his opinion shall be most beneficial to his ward. And if the said estate shall be sold at public auction, the sale thereof shall be in the same county, and at some public place on or near the premises.

S. C. to
empower
guardians,
&c.

And be it further enacted, That every judge of Probate in said State, whenever he shall appoint a guardian to any minor, idiot or lunatic, or distracted person, shall take of said guardian sufficient caution to account with him for all the profits which shall arise from the sale of real estate, in the same manner as guardians are now holden by law to account with him for personal estate. And that no guardian shall sell any real estate by virtue of this act until such caution be given.

Judge of
Probate to
take caution

Approved Dec. 24, 1795.

Passed Feb.
10, 1791.

Promises and
agreements
by parole.

Contract for
the sale of
goods, ten
pounds or
more.

AN ACT to prevent frauds and perjuries.
BE it enacted by the Senate and House of Representatives in General Court convened, That no action shall be brought whereby to charge any executor or administrator upon any special promise, to answer damages out of his own estate; or whereby to charge the defendant upon any special promise, to answer for the debt, default, or miscarriage of another person, or to charge any person upon an agreement made upon consideration of marriage, or upon any agreement that is not to be performed within the space of one year from the time of making it; unless such promise or agreement, or some memorandum or note thereof be in writing, and signed by the party to be charged therewith, or by some other person thereunto by him lawfully authorized,

And be it further enacted, That no contract for the sale of any goods, wares and merchandize, for the price of ten pounds or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties, to be charged by such contract, or their agents thereunto lawfully authorized.

This act passed February 10, 1791.

Passed Sept.
1, 1781.

Preamble.

Contracts
for lawful
money, how
considered.

AN ACT for making gold and silver a tender for all debts, and for settling the depreciation of the paper currency; and for the future regulation of the courts of justice in this State.

WHEREAS paper bills have been a lawful tender for all debts, the value of which is by their depreciation become uncertain, and it is necessary that a more permanent and fixed medium should be established as a tender:

BE it therefore enacted by the Council and House of Representatives in General Assembly convened, and by the authority of the same it is hereby enacted, That all contracts which shall hereafter be made for lawful money, shall be considered as made for Spanish milled dollars

and personal, of the said idiot or distracted person, and to make a true and perfect inventory of the said estate, to be returned to, and filed in the register's office of the court of probate within such county. Inventory of his estate to be made.

And be it further enacted, That the judge of probate in each county, be, and hereby is fully authorized and empowered to call before him, and to require and administer an oath unto any person or persons, probably suspected of making any concealment, or embezzlement, or conveying away any of the money, goods, or chattels of any such idiot, non compos, lunatic, or distracted person, as well upon the complaint of any heir, creditor or other person having lawful right or claim to, or in such estate, as of the said guardian or guardians; and in case any such suspected person was intrusted by the said idiot, non compos, lunatic or distracted person, or was otherwise conversant with, or near unto him at the time of his lunacy, or distraction, or is in possession of the estate, or any part of it, whereby to strengthen and make the suspicion more violent, and shall refuse to clear, and acquit him or herself upon oath, it shall Persons suspected of embezzlement.

and may be lawful for the several judges of probate within this State, and they are accordingly empowered and directed to commit such person or persons so refusing to swear, unto the gaol of such county to which such judge shall belong, there to remain, until he or she shall comply to discharge him or herself upon oath as aforesaid, or be released by consent of the guardian or guardians, heir, creditor, or other person having lawful right or claim to, or in such estate as aforesaid. Power of the judge to imprison.

And be it further enacted, That the guardian or guardians, appointed as aforesaid, shall improve fruitfully, and without waste and destruction, the estate of the idiot, non compos, lunatic or distracted person, and apply the annual profits and income thereof for the comfortable maintenance and support of the said idiot, lunatic, non compos, or distracted person, and so of his household or family (if any such he have) and that the said guardian or guardians be and hereby be empowered to settle accounts; receive (and if need be) sue for and recover all such just debts as be due to the said idiot, distracted person or non

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non compos, from any person or persons whomsoever, and to manage, improve, divide, or take care of the real estate of such idiot, or distracted person in as full and ample a manner, as the said persons could or might do, were they restored to their right mind; and also shall be subject to the payment of all such just debts owing by such persons, which were contracted before their distraction, out of the personal estate of such idiot, person non compos, or distracted, or in case that be not sufficient, then out of the real estate, being first empowered to make sale thereof, or of such part as is sufficient for that end, by the justices of the superior court of judicature, upon application to them made therefor, who are hereby authorized and empowered to order the same: And in case the said distracted persons shall come, or be restored to their right mind, the residue of his or her estate, both real and personal, shall be returned to them, or to their respective heirs, executors, or administrators, in case of their death as the law directs the guardian or guardians having first such a reasonable allowance out of the same for their charges and trouble, as the judge of probate (having cognizance of the same) shall order.

What to be done when the ward shall be restored.

Guardians to give bond.

Appeal to the superior court.

Guardian may defend any suit.

And be it further enacted, That the guardian or guardians, appointed as aforesaid, shall give bond to the judge of probate for the time being, in such county where the idiot, distracted person, or non compos shall reside, in a reasonable sum with sufficient sureties, for the faithful discharge of the trust in them reposed; more especially, for the rendering a just and true account of their guardianship, when and as often as they shall be thereunto required: Saving always the right of appeal to the superior court of judicature, from the sentences and decrees of any of the said judges of probate, made by virtue of this act.

And be it further enacted, That the guardians appointed shall have full power to defend any suit or action or process that is, or shall be prosecuted against any lunatic, non compos, or distracted person, and depending at the time of the appointment of such guardian, that no injury may be done to such lunatic non compos, or distracted person or his estate, nor any just and lawful creditor defrauded, delayed

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dollars, at the rate of six shillings per dollar, or other silver and gold in proportion. And all debts due before the last day of January, one thousand seven hundred and seventy-seven, shall be considered as of the same value, and paid accordingly; and a tender of gold or silver for such debt at the rate aforesaid, shall be judged legal. And all contracts for paper money, from the last day of January, one thousand seven hundred and seventy-seven, to the last day of June, one thousand seven hundred and eighty-one, shall be computed and paid according to the following table or scale; which scale is considered as calculated for the last day of each month, and the daily depreciation to be computed in the same proportion.

1777.	1778	1779	1780	1781	Deprecia- tion scale.
Continental paper.	Continental paper.	Continental paper.	Continental paper.	Continental paper.	
£.	£.	£.	£.	£.	
January,	equal 325 100	742 100	2934 100	7500 100	
February,	104 100 350 ditto	868 ditto	3322 ditto	7500 ditto	
March,	106 ditto 375 ditto	1000 ditto	3736 ditto	7500 ditto	
April,	110 ditto 400 ditto	1104 ditto	4000 ditto	7500 ditto	
May,	114 ditto 400 ditto	1215 ditto	4800 ditto	7500 ditto	
June,	120 ditto 400 ditto	1342 ditto	5700 ditto	12000 ditto	
July,	125 ditto 425 ditto	1477 ditto	6000 ditto		
August,	150 ditto 450 ditto	1630 ditto	6300 ditto		
September,	175 ditto 475 ditto	1800 ditto	6500 ditto		
October,	275 ditto 500 ditto	2030 ditto	6700 ditto		
November,	300 ditto 545 ditto	2308 ditto	7000 ditto		
December,	310 ditto 634 ditto	2393 ditto	7300 ditto		

This act passed September 1, 1781.

Approved
February
20, 1794.

AN ACT to establish the method of computation of money in accounts and other transactions.

WHEREAS it is of importance to society, and will facilitate commerce, that the money of account be rendered as simple as its nature will admit; and whereas the method of notation used by the United States, is easy of comprehension, and will readily apply to the monies current in the commercial world, and as in case of its adoption, the actual monies, and the money of account will be of the same denomination, its establishment cannot be attended, on its introduction, with injury or inconvenience to the citizens of the State:

BE it enacted by the Senate and House of Representatives in General Court convened, That the legal money

Preamble.

Legal money of account to be in dollars, &c.

money of account of the State of New-Hampshire, from and after the first day of January, one thousand seven hundred and ninety-five, shall be in dollars and decimals of a dollar: That is to say, dollars, dimes and cents, or dollars and cents—the dollar to be of the value of the federal dollar, so called, or dollar of the United States, and equal to six shillings of the present lawful money—the dime, of the value of one tenth part of a dollar, and the cent of the value of one hundredth part of a dollar.

And be it further enacted, That from and after the said first day of January, the judgments of all State courts, accounts in all public State offices, and assessments in all State taxes, shall be in dollars and cents, or dollars, dimes and cents, reckoned and valued as aforesaid.

Approved February 20, 1794.

Passed Feb.
8, 1791.

Treason.

AN ACT for the punishment of certain crimes.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any person or persons, owing allegiance to this State, shall levy war, or conspire to levy war against the same or shall in any way within this State or elsewhere give aid and comfort to the enemies of this State, and shall be thereof convicted, either on confession in open court, or on the testimony of two witnesses, to the same overt act of treason, of which such person is indicted, such person or persons shall be adjudged guilty of treason against this State, and shall suffer death.

And be it further enacted, That if any person or persons, knowing any such treason to have been committed, or having knowledge of the intention of any person or persons to commit any such treason shall not within fourteen days from the time of his having such knowledge, give information thereof to the president of this State, some of the justices of the superior court of judicature, or some justice of the peace, such person or persons shall, on conviction be adjudged guilty of misprison of treason, shall be imprisoned not exceeding seven years, and fined not exceeding five hundred pounds.

Misprison of
treason.

And

And be it further enacted, That if any person shall commit wilful murder, such person shall on conviction thereof suffer death. **Murder.**

And be it further enacted, That if any woman shall endeavor privately to conceal the death of any issue of her body (which if born alive, would by law be a bastard) so that it may not come to light, whether it were born alive or not, or whether it was murdered or not, in every such case the mother so offending, on being thereof convicted, shall be set on the gallows for the space of one hour, and may be imprisoned not exceeding two years, or instead of being set on the gallows, may be fined not exceeding three hundred pounds. **Concealment of the death of a bastard child.**

*And where the grand jury shall charge in the same indictment, any mother with the murder of her infant bastard child, as well as with the offence before described of concealing the death of such infant, the jury who pass upon the trial, may acquit as to the murder, and convict of the said offence of concealing as aforesaid. **Jury may acquit of the murder and convict of concealment.***

And be it further enacted, That if any person shall commit man slaughter, and be thereof convicted, such person shall be set on the gallows for the space of one hour with a rope about his neck, and one end thereof shall be cast over the gallows, and imprisoned not exceeding twelve months, bound to good behavior a term not exceeding three years, and fined not exceeding three hundred pounds; and the court before whom the conviction shall be, shall order the person convicted to suffer all, or part of the foregoing punishments, according to the circumstances and aggravations of the offence. **Man slaughter.**

And be it further enacted, That if any man shall ravish and carnally know any woman, committing carnal copulation with her by force, against her will, or if any man shall unlawfully and carnally know and abuse any woman child, under the age of ten years, every person so offending in either of those cases, on conviction shall suffer death. **Rape.**

And be it further enacted, That if any man shall carnally lie with a man, as a man carnally lieth with a woman, or if any man or woman shall have carnal copulation with any beast, or brute creature, and be thereof

Sodomy.

thereof convicted, the offender in either of those cases before mentioned, shall suffer death, and the beast shall be slain and burned.

Burglary.

And be it further enacted, That if any person shall in the night time break and enter any dwelling-house, in this State, with intent to kill, rob, steal, or to do or perpetrate any felony, the person so offending being thereof convicted shall suffer death.

Arson.

And be it further enacted, That if any person between sun-setting and sun-rising shall willfully and maliciously burn the dwelling-house of another, or any out-building adjoining thereto, or any other building, by means of which a dwelling-house shall be burnt, such person on conviction of any such offence, shall suffer death.

Burning in the day time.

And be it further enacted, That if any person between sun-rising and sun-setting, shall wilfully and maliciously burn the dwelling-house of another, or any out-building adjoining thereto, or any other building, by means of which a dwelling-house shall be burnt, or if any person shall wilfully and maliciously by night or by day, burn any barn, ware-house, shop, mill, malt-house, out-house, any school-house, meeting-house, court-house, or any other building erected for public or private use, any ship or other vessel used in navigation, or if any person shall wilfully and maliciously burn any stacks of corn, hay, grain, fences, piles of boards, lumber or wood, the person offending in either of the cases aforesaid, being thereof convicted, shall be sentenced to be set in the pillory, whipped, imprisoned, bound to good behavior, or fined a sum not exceeding one thousand pounds, or any, or all of the foregoing punishments, according to the nature and aggravation of the offence.

Burning by night or day any public building, or ship, &c.

Robbery.

And be it further enacted, That if any person shall feloniously assault, rob and take from another person any money, goods, chattels, or other property, that may be the subject of theft, such person being thereof convicted, shall be adjudged guilty of felony, and shall suffer death.

Assault with intent to commit murder, &c.

And be it further enacted, That if any person shall make an assault on another with intent to commit murder, rape, sodomy or robbery, or if any person shall assault any woman in the fields, streets, or highways,

ways, and offer any violence to such woman, the person so offending, on conviction thereof, shall be fined not exceeding three hundred pounds, imprisoned not exceeding two years, be whipped not exceeding one hundred stripes, as the court before whom the conviction may be, considering the nature and aggravations of the offence may order.

And be it further enacted, That if any person shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or willingly aid or assist in the false making, altering, forging or counterfeiting any State note, certificate or other public security of this State, or shall utter, put off or offer, or cause to be uttered, put off, or offered in payment, or for sale, any such false, forged, altered, or counterfeited State note, certificate, or other public security of this State, with intention to defraud any person, knowing the same to be false, altered, forged or counterfeited; the person so offending in either of the cases aforesaid, shall on conviction thereof suffer death.

Forgery of public securities.

And be it further enacted, That if any person shall wilfully and deceitfully forge or alter, or willingly and deceitfully cause to be forged or altered, or procure, aid and counsel the forging or altering of any matter of record, any writ, process, or other proceedings in the courts or course of justice in this State, any deed of conveyance, last will and testament, obligation or writing sealed, any promissory note, bill of exchange, order, acceptance, assignment or endorsement on them, any acquittance or receipt for money, goods or other thing, or any warrant, order, or request for the payment of money, or the delivery of goods or chattels of any kind, any certificate, or accountable receipt for money, or other thing, any lottery ticket, or any evidence or assurance of money, or other thing whatever, with intent to defraud any person, or if any person shall utter, or publish as true, or cause or procure to be uttered and published as true, any of the above false, forged, altered and counterfeited deeds and other matters, as above specified, or shall in any wise be aiding and assisting therein, with intent to deceive and defraud any person; the person so offending, on conviction thereof,

Forgery of records, obligations, &c.

thereof, shall be punished by sitting in the pillory, imprisonment not exceeding three years, and fined not exceeding five hundred pounds, or any or all of these punishments according to the nature and aggravations of the offence.

Offender
must be in-
dicted, and
where tried.

And be it further enacted, That no person shall be tried for any offence, for which capital punishment may be inflicted, until a bill of indictment be found against him for such offence, by the grand jurors attending the superior court of judicature; and in all criminal causes the trial shall be had in the county where the offence was committed, if the offence was committed within this State, and in case the offence was committed without the limits of this State, the offender shall be tried in the county where he is apprehended, or in the county into which he is first brought.

May have
copy of his
indictment,

And be it further enacted, That every person indicted for treason, or any other crime, the punishment of which is death, shall be entitled to a copy of the indictment found against him, before such person be arraigned thereon, and a list of the witnesses to be used on the trial, and the jurors returned to serve on the same, with their names, and the places of their abode, shall be delivered to the prisoner forty-eight hours before the trial, and the prisoner shall at his request, have counsel learned in the law assigned him by the court, not exceeding two, and such counsel shall have access to the prisoner at all reasonable hours; and the person so accused and indicted, shall have liberty to make his full defence by counsel, and by himself, and to make any proof by lawful witnesses that he may produce, and such prisoner shall have the like process from the court before whom the trial may be, to compel witnesses to appear and testify at the trial, as is usually granted to compel witnesses to appear and testify on the prosecution against persons accused.

Standing
mute.

And be it further enacted, That if any person indicted for treason against this State, or for any other offence, for which the punishment by law is death shall stand mute when arraigned thereupon, a jury shall forthwith be empannelled and sworn to try whether the person so standing mute, standeth mute by

by the providence of GOD, or fraudulently, wilfully and obstinately; and if they shall return their verdict that the prisoner standeth mute by the providence of GOD, the court shall thereupon cause the prisoner to be remanded to prison, and shall not proceed against him until he shall have recovered therefrom; but if the jury return their verdict, that the prisoner standeth mute fraudulently, wilfully and obstinately, then the court shall proceed to the trial of the person so standing mute, as if he had pleaded not guilty, and the said court shall render judgment accordingly, except that the person so standing mute, shall not be allowed to make any challenges to the jurors.

And be it further enacted, That every person indicted for treason, or any other crime, the punishment of which is death, who shall have duly pleaded to the indictment found against him, and shall have put himself on the country for trial, shall be permitted to challenge, without assigning any reason for such challenge, twenty of the jurors, and as great a number further as he can shew legal cause for challenging, and if any person indicted as aforesaid, after having voluntarily pleaded as aforesaid, shall refuse to put himself on the country for trial; or shall peremptorily challenge a greater number than twenty of the jury, as aforesaid, the court shall disallow of all such peremptory challenges; above the number of twenty; and the jury shall be charged and the trial shall proceed in like manner, in all respects; and the like judgment shall be given, as if the person so refusing to put himself on the country for trial, or so challenging a greater number than twenty jurors, without assigning any cause, had duly put himself on the country for trial; and had not peremptorily challenged a greater number of jurors than by law he might, or could have done.

And be it further enacted, That the attorney general or other person prosecuting in behalf of the State, shall not be admitted in any case whatever, peremptorily to challenge any juror, about to be impanelled for the trial of any criminal accusation or charge.

And be it further enacted, That if any person shall be convicted of any crime at common law, wherein by law the benefit of clergy was heretofore allowed, and for which, without such benefit of clergy, he

Challenges of the jurors

Benefit of clergy

Benefit of clergy

Attorney general may not peremptorily challenge.

Benefit of clergy not allowed.

must have been sentenced to suffer the pains of death, such person shall not be entitled to the benefit of clergy, but instead of the punishment of death, such person shall be punished by being set on the gallows for the space of one hour with a rope about his neck, and the other end thereof cast over the gallows, by fine not exceeding one thousand pounds, by whipping not exceeding thirty-nine stripes, or suffer one or more of these punishments, according to the aggravation of the offence.

And be it further enacted, That the benefit of clergy shall not be used, or allowed upon conviction of any crime, for which by any statute of this State, the punishment is or shall be declared to be death.

Indictment
for treason
to be
found with-
in two years
after the of-
fence.

And be it further enacted, That no person shall be tried for any treason, unless the indictment for the same be found within two years next after the offence committed.

Punishment
of death by
hanging.

And be it further enacted, That the manner of inflicting the punishment of death, shall be by hanging the person convicted by the neck until dead.

Process hav-
ing issued
out of the
State, how
to proceed.

And be it further enacted, That where process shall have issued in any other of the United States, against any person for a crime alledged to have been committed in such State, and the person against whom the process issued, shall make his escape into this State, any justice of the peace in this State, on application made to him, and on sufficient proof that such process issued from lawful authority, shall issue his warrant directed to all proper officers in the county for which such justice is commissioned, or to any person by name, who shall be under oath to the faithful execution thereof, requiring the person or persons to whom the same warrant may be directed, to apprehend the said offender, if he may be found in such county, and the justice to whom the same warrant may be returned, may, if he shall think it proper on examination, send by warrant such offender to the line of this State, next to the State in which the original process issued, that he may be delivered to some proper officer there ready to receive him, and convey him to the place where the offence was committed, and the sheriffs of the respective counties in this State, and all other persons to whom the same precept may be directed,

are

are hereby required to obey and execute the same.

And be it further enacted, That where any offender shall be apprehended in any neighbouring State, and it may be necessary to carry him through this State, in order that he may be conveyed to the place where the offence was committed, it shall be the duty of any justice of the peace in this State, on application made to him, and proof that lawful process hath issued against such offender, by warrant under his hand and seal, directed to the sheriffs in such counties through which it may be necessary to carry such offender, or to other proper officers in such counties, or to any other person by name, to cause such offender to be conveyed to the line of this State, next to the State where the offence was committed, there to be delivered to some proper officer ready to receive such offender; and the persons to whom such precept may be lawfully directed as aforesaid, are hereby required to obey and execute the same.

Offenders may be carried through this State.

And be it further enacted, That the sheriffs, deputy sheriffs, constables, or other officers of justice of any neighbouring government, with their assistants, in the execution of any lawful process, issuing from, or returnable to courts in their respective States, may, and shall have full liberty, power and authority to pass and repass, and also to convey such persons or things as they may have in their custody by virtue of any such lawful process as aforesaid, in or by any of the roads or ways lying in, or leading through any towns or lands in this State, in as full, free and ample a manner, as the officers of justice in this State do use and exercise in the discharge of their duty and office,

Sheriffs, &c. of other governments to pass and repass.

And any person insulting, or obstructing such officer so passing through any part of this State, in such execution of their office as aforesaid, shall be liable to the same punishment as by law is inflicted on persons insulting similar officers of this State, in the execution of their offices in similar cases.

Persons insulting punished.

And be it further enacted, That when any justice of the peace in any county in this State, shall issue his warrant against any person for an offence committed in such county, and the offender escape into any other county in this State, any justice of the peace in any county where such offender may be found, on application

Justice issuing his warrant and the offender escaping.

application made to him, and proof of such process having issued from lawful authority, shall issue his warrant directed to all proper officers of his county, requiring them to apprehend the said offender, and convey him to the line of the county where the offence is alledged to have been committed, if an adjoining county, and there deliver him to some proper officer, and if there be any county intervening, the same process may be repeated, until the offender be conveyed and delivered to some proper officer of the county where the offence is alledged to have been committed.

And be it further enacted, That any justice throughout this State, may issue a warrant for apprehending any criminal offender in any county in this State, and the said warrant may be directed and shall be obeyed and executed by the persons to whom the same is directed, in the same manner as warrants issuing from the court of general sessions of the peace are, and ought to be directed, obeyed and executed.

And be it further enacted, That when a certificate shall issue from the clerk of any judicial court, in any other of the United States, certifying that there is a criminal cause pending in such court, and that a person or persons residing or inhabiting in this State is supposed to be a material witness in such cause, either in behalf of such State, or the person accused, any justice of the peace in the county where such necessary witness resides, on application made to him shall on the back of such certificate, or paper annexed thereto, issue a summons requiring such witness to appear at the court where such cause is pending and testify; and if any person so summoned, and having tendered unto him a sum equal to four pence for every mile's travel, from the place of such witness's abode, to the court where the trial may be, and six shillings at the end of every day for such witness's attendance at the place of trial, and such witness having no reasonable excuse to the contrary, shall neglect to appear and attend such court and testify; every person so neglecting and refusing, shall forfeit and pay one hundred pounds to any person though not an inhabitant of this State, who will sue for the same in this State.

This act passed February 8, 1791.

AN

Justice thro'
out the State
his warrant
to run
throughout
the State.

Witnesses
inhabiting
in this State
necessary in
another
State.

AN ACT for the punishment of certain crimes not capital.

Passed Feb.
16, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That every person convicted of drunkenness shall be fined in a sum not exceeding ten shillings, nor less than five, to the use of the town or place where the offence is committed, and upon a second conviction for the like offence, the fine shall be double, and upon a third conviction for the like offence the fine shall be treble, that is, in case of a second conviction the fine shall not be less than ten nor more than twenty shillings, and in case of a third or any after conviction, not less than fifteen nor more than thirty shillings; and in case the person convicted be unable to pay, or does not immediately pay the fine imposed and cost of prosecution, he shall be set in the stocks, not exceeding three hours, or be committed to the common gaol, there to remain not more than three days.

Drunken-
ness

And be it further enacted, That if any person of the age of fourteen years or upwards shall wittingly, wilfully and maliciously make and publish a lie, or shall falsely and maliciously make and publish a libel tending to the defamation or damage of any person, or shall maliciously publish any such lie or libel, with intent to injure any person, the person so offending, shall on conviction be fined, not exceeding forty shillings, and the court or justice before whom such conviction may be, may order the person convicted to find sureties for good behavior for a term not exceeding one year, and if the person convicted and sentenced as aforesaid, shall be unable to pay the fine inflicted and costs of prosecution, the court or justice before whom the conviction may be, may order the person convicted to be set in the stocks, not exceeding three hours.

Publishing a
lie or libel.

And be it further enacted, That if any person shall steal any money, personal goods or chattels, or any record, writ, process or other proceeding in any of the courts in this State, or any paper that shall contain on it evidence of a debt, covenant, contract or promise, or that shall contain on it evidence of the payment or discharge of any debt, covenant, contract or promise, the persons so offending, their counsellors,

Theft.

aiders

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aiders and abettors, knowing of and privy to the offences aforesaid, being thereof convicted, shall be fined not exceeding one hundred pounds, or whipped not exceeding thirty nine stripes, and shall be further sentenced to pay treble the value of the goods or other articles stolen, to the owner thereof; any of the articles stolen being returned undamaged, to be accounted part according to the value thereof, and if such offender be unable to make restitution, or pay such three fold damages, he may be enjoined or sentenced to make satisfaction by service, and the person to whom such satisfaction is to be made, is hereby empowered to dispose of the said convict in service, for such term of time as shall be ordered and assigned by the court or justice before whom the conviction shall be.

Justice of
the peace to
try under
40s.

And every justice of the peace in the county where such offence is committed, is hereby authorized to hear and determine all offences for stealing or receiving stolen goods, provided the value of the property stolen, exceed not the sum of forty shillings, and may sentence any such offender to pay a fine not exceeding forty shillings, or to be whipped not exceeding ten stripes; and in case of inability to pay the three fold damages, to make satisfaction by service.

Receivers of
stolen goods

And be it further enacted, That if any person shall receive or buy any goods or chattels, or other things taken and stolen from any other person, knowing the same to be stolen, or shall receive and harbour any thief or thieves, knowing him, her or them to be so, the person so offending being thereof convicted, shall be liable to the like punishment as in the case of larceny before mentioned and prescribed.

Perjury.

And be it further enacted, That if any person shall wilfully and corruptly commit perjury, or shall by any means procure any other person to commit wilful and corrupt perjury, or shall swear falsely on his or her oath or affirmation, in any suit, controversy, matter or cause depending in any of the courts in this State, or in his or her oath or affirmation administered by any person having lawful right to administer the same, in or concerning any matter or thing whatever, or in any deposition taken pursuant to the laws

of

of this State, every person so offending and being thereof convicted, shall be imprisoned not exceeding one year, fined not exceeding one hundred pounds, and shall stand in the pillory one hour, and shall thereafter be rendered incapable to give testimony in any court, or before any justice of the peace in this State, so long as the said judgment is unreversed, and shall moreover be liable to pay all such damages as any person may have sustained, by reason of any such offence having been committed as aforesaid.

And be it further enacted, That if any person shall wilfully and corruptly endeavor to incite another person to commit wilful and corrupt perjury as aforesaid, and the person so incited do not commit such perjury, the person so corruptly endeavoring to incite and procure the commission of wilful and corrupt perjury as aforesaid, being thereof convicted, shall be fined a sum not exceeding fifty pounds, or be imprisoned not exceeding six months, or both, according to the aggravation of the offence.

Subornation
of perjury.

And be it further enacted, That if any man shall commit fornication with any single woman, and be thereof convicted, every person so offending shall be fined a sum not exceeding sixty shillings, and if unable to pay, may be whipped not exceeding ten stripes; provided always, that in this case, the oath of the woman only, shall not be considered as sufficient evidence to convict the man.

Fornication

And be it further enacted, That if any person or persons shall assault or beat any person or persons, or in any other way break the peace, such person or persons on conviction thereof, shall be fined at the discretion of the court or justice before whom the conviction shall be, in a sum not exceeding forty shillings, according to the aggravations of the offence.

Assaulting
and beating.

And be it further enacted, That if any person shall on purpose, and of malice aforethought, unlawfully cut off the ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, cut off the nose or a lip, or cut off or disable any limb or member of any person, with intention in so doing to maim or disfigure such person, in any of the manners aforesaid; every person so offending, his counsellors, aiders and abettors,

Maiming.

abettors, knowing of and privy to any of the offences aforesaid, shall, on conviction thereof, be imprisoned not exceeding seven years, and fined not exceeding three hundred pounds.

Obstruſing
ſheriff, &c.
in the exe-
cution of
his office.

And be it further enacted, That if any person or persons shall knowingly and wilfully obstruct, resist or oppose any sheriff or other officer of this State, in serving or attempting to serve or execute any mesne process or warrant, or any rule or order of any of the courts of this State, any legal order or command of any justice of the peace within this State, or any other legal or judicial writ or process whatsoever, or shall assault, beat or wound any officer or other person, duly authorized in serving or executing any writ, rule, order, process or warrant as aforesaid, or if any person shall by force set at liberty or rescue any person arrested or committed by virtue of any mesne process, order, warrant, writ of execution, or any other writ issuing from any court of record, or any justice of the peace within this State, in any civil cause, or in any criminal cause not capital, every person so knowingly and wilfully offending, shall, upon conviction, be imprisoned not exceeding twelve months, and fined in a sum not exceeding ninety pounds.

Riot, rout &
unlawful af-
sembly

And be it further enacted, That if any persons to the number of twelve or more, being armed with clubs or other weapons, or if any number of persons consisting of thirty or more, shall be unlawfully, riotously, tumultuously and tumultuously assembled, any justice of the peace, sheriff, deputy-sheriff of the county, or constable of the town, shall, among the rioters, or as near to them as he can safely come, command silence while proclamation is making, and shall then proceed to make proclamation in these or the like words—
“By virtue of a law of this State, I am directed to charge and command, and do accordingly in the name of the State of New-Hampshire, charge and command all persons here assembled to disperse immediately and depart peaceably to their habitations, or lawful employment.”

neglecting to
disperse, &c.

And if any person or persons so unlawfully assembled, shall refuse or neglect to disperse and depart peaceably, but shall continue unlawfully, riotously, routously

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routously or tumultuously assembled, for the space of one hour after proclamation made as aforesaid, or if any person or persons shall wilfully and forcibly let or hinder any such officer, who shall be known, or shall openly declare himself to be such, from making the said proclamation, every person so offending shall on conviction, be punished by imprisonment, not exceeding one year, and by fine not exceeding three hundred pounds.

And be it further enacted, That if any person shall openly deny the being of a God, or shall wilfully blaspheme the name of God, Jesus Christ, or the Holy Ghost, or shall curse or reproach the word of God, that is, the canonical scriptures contained in the books of the old and new testament, namely, Genesis, Exodus, Leviticus, Numbers, Deuteronomy, Joshua, Judges, Ruth, Samuel, Samuel, Kings, Kings, Chronicles, Chronicles, Ezra, Nehemiah, Esther, Job, Psalms, Proverbs, Ecclesiastes, the Song of Solomon, Isaiah, Jeremiah, Lamentations, Ezekiel, Daniel, Hosea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habakkuk, Zephaniah, Haggai, Zachariah, Malachi, Matthew, Mark, Luke, John, Acts, Romans, Corinthians, Corinthians, Galatians, Ephesians, Phillippians, Colosians, Thessalonians, Thessalonians, Timothy, Timothy, Titus, Philemon, Hebrews, James, Peter, Peter, John, John, John, Jude, Revelations; every person so offending shall be punished by fine not exceeding fifty pounds, and may be bound to good behavior for a term not exceeding one year.

Blasphemy.

This act passed February 16, 1791.

AN ACT in addition to an act entitled, "An act for the punishment of certain crimes not capital.

Passed Dec. 18, 1792.

WHEREAS larcenies are frequent, and the guilty escape with little punishment, without making recompence; notwithstanding the laws now in force:

Preamble.

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That whosoever any person, by due course of law, shall be hereafter convicted of stealing any horse or horses, mule or

For stealing horses, &c. how to be marked.

L L

mules,

mules, neat cattle or sheep, every such person shall be marked with a line of India-ink well and deeply inserted, above the eye-brows, from the hair of the temples on the one side, to the hair of the temples on the other side of the forehead, and by a line in the same manner inserted from the centre of the line aforesaid to the end of the nose, on the most prominent part thereof; on the first conviction, and for stealing any other personal property, shall be marked in like manner on the second conviction. And every such person shall remain in custody not exceeding thirty days, till the said marks are well and effectually fixed, and shall be liable to be marked again, in case by any means he shall rub out or efface the same.

Sheriff's duty

And the sheriff of each county shall make, or cause to be made, the marks aforesaid, as soon as conveniently may be after conviction, and shall receive therefor out of the county treasury where the conviction shall be, the sum of six shillings for marking each convict as aforesaid. And any person's having been before convicted of theft in any part of the United States of America, shall be deemed a first conviction within the intent of this act.

Convicts may be confined.

And any person to whom one convicted of stealing is put to service to make satisfaction, may in any manner, without cruelty, chain, or otherwise shackle or confine in the public gaols or elsewhere, such convict in service, in such manner as may be necessary for his performing from day to day the task or labour enjoined on him,

Courts may remit the punishment.

Nevertheless if the cost and treble damages be paid, it shall be in the power of the court before whom the conviction shall be, to remit the punishment in this additional act provided; But the person so convicted shall be liable to the same punishment on the next conviction, which shall not be remitted.

Additional punishment.

And be it further enacted, That where any person shall have been convicted and marked as aforesaid, in all, or any subsequent conviction, he shall receive the additional punishment of whipping, not exceeding one hundred stripes, and be set on the gallows, with a rope about his neck, not exceeding two hours. But no judgment before a justice of the peace on a charge of theft, shall be deemed a conviction, within the meaning

meaning of this act, nor shall any thing herein repeal any former act.

And be it further enacted, That if any person convicted of stealing in any case, shall be unable to pay the cost and charges of bringing him to conviction, or shall escape, the same being unpaid, said costs and charges shall be paid out of the county treasury where such conviction shall be, at such reasonable rate as the court of general sessions of the peace shall order.

This act passed December 18, 1792.

In certain cases the cost to be paid by the county.

AN ACT providing for the compensation of certain persons employed in apprehending and bringing to justice offenders against the laws of this State.

Approved
Jan. 9, 1795.

BE it enacted by the Senate and House of Representatives in General Court convened, That whenever an account shall be exhibited to the superior court of judicature, or to either of the courts of common pleas in this State, against a county for services done under the direction of either of the courts aforesaid, the attorney general, one of the solicitors, or any justice of the peace, in apprehending and bringing to justice any offender charged with any felony, or high handed misdemeanor against the laws of this State, and no provision of this State shall have been made for the payment thereof; the courts aforesaid respectively shall have power to examine the same, and allow so much thereof, as they may deem equitable, and for the sum so allowed, the chief or first justice of the respective courts aforesaid, shall give order on the county treasurer, who is hereby authorized and directed to pay the same.

Enacting
clause.

Approved January 9, 1795.

AN ACT to prevent persons from digging up the bodies of dead people.

Approved
June 16,
1796.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any person or persons shall enter any church yard, or any public or private burying place, or any place where persons

Penalty
for digging
up dead
bodies.

persons are buried in this State, and there dig up, or carry away any human body, or the remains thereof, or shall directly or indirectly be aiding or assisting therein, shall for every such offence, on conviction thereof before the justices of the superior court, be fined a sum not exceeding one thousand dollars, be publicly whipped not exceeding thirty-nine stripes, to be imprisoned not exceeding one year, as the court before whom the conviction shall be, considering the nature and aggravation of the offence may order.

Appropriation of fines

And be it further enacted, That all fines arising by this act, shall be one half thereof to the informant, the other moiety to the use of the county where the offence was committed,

Except by licence from justice

Provided nevertheless, That this act shall not extend to any person or persons who may have a licence from any justice of the peace in the county where such person is buried, authorizing him or them to dig up such dead body, when complaints are made, and suspicions entertained, that the deceased came to his or her death by some unlawful means, or to any relation or friend of the deceased wishing to remove the said body to some other ground, or to any person taking up the body of a criminal, having purchased the same of said criminal for the purpose of dissection, having a certificate therefor from a justice in such county; nor shall this act be construed to extend to prevent any town or place in this State from removing the dead from one burying ground or field to another, where it is provided for by vote of said town or place.

Or vote of town.

Approved June 16, 1796.

Passed Feb.
15, 1791.

AN ACT for the punishment of lewdness, adultery and polygamy.

A man found in bed with another man's wife.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any man be found in bed with another man's wife, the man and woman so offending, or if any man and woman, either or both of whom are married, and not each other, shall lewdly and lasciviously associate and cohabit together, or if any man or woman married or unmarried,

unmarried, shall be guilty of open gross lewdness and lascivious behavior, the person or persons so offending, being thereof convicted before the justices of the superior court of judicature, shall be whipped, not exceeding thirty stripes, imprisoned not exceeding six months, fined not exceeding fifty pounds, bound to good behavior for a term not exceeding three years; all or any of the foregoing punishments at the discretion of the court before whom the conviction shall be.

Lascivious-
ness.

Provided always, That the case first abovementioned of a man and woman being found in bed together, shall be construed to extend only to the person consenting thereto, and not to the person who was surprized in that situation, and who did not consent thereto.

Proviso.

And be it further enacted, That any man or woman who shall commit adultery, and be thereof convicted before the superior court of judicature, shall be set on the gallows for the space of one hour, with a rope about his or her neck, and the other end thereof cast over the gallows, be publicly whipped not exceeding thirty nine stripes, imprisoned not exceeding one year, be fined not exceeding one hundred pounds, bound to good behavior for a term not exceeding five years, any or all the foregoing punishments in the discretion of the court before whom the conviction shall be.

Adultery.

And be it further enacted, That any person within this State, being married, who shall during coverture marry any other person, or who shall continue to live so married in this State, being thereof convicted, shall be set on the gallows for the space of one hour with a rope about his or her neck, and the other end thereof cast over the gallows, be publicly whipped not exceeding thirty-nine stripes, be imprisoned not exceeding one year, fined not exceeding one hundred pounds, be bound to good behavior for a term not exceeding five years, all or any of the foregoing punishments in the discretion of the court trying the same.

Polygamy.

Provided always, That nothing in the foregoing clause shall be construed to extend to any person whose husband or wife shall be absent for the space of

Proviso.

of three years together, and the person so absent hath not been heard of during that time, or to any person whose husband or wife shall be absent, and information shall be given and generally believed that the party so absent is dead.

Marriages
void.

And be it further enacted, That all marriages where either of the parties at the time of entering into such marriage, shall be under coverture, shall be absolutely void.

This act passed February 15, 1791.

Passed Feb. 10, 1791. AN ACT for the punishment of profane cursing and swearing.

Profane
swearing.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any person shall profanely curse or swear, and shall be thereof convicted by confession, or other sufficient evidence, the person so offending shall pay a fine not exceeding eight shillings, nor less than one shilling for every profane curse or oath, according to the aggravations of the offence, the quality and circumstances of the offender in the judgment of the justice or the court before whom the conviction may be, and in case the same offender shall after conviction offend a second time, the fine shall be double, and a third time treble, and a like treble sum for every after conviction.

And if any person convicted of any such offence, be unable to pay the fine imposed upon him, and costs of prosecution, the justice before whom the conviction may be, may imprison the person convicted, not exceeding ten days, or order him to be set in the stocks, not exceeding one hour, or be whipped not exceeding ten stripes, either, but no more than one of these punishments at the election of the justice or court.

Record of
conviction.

And be it further enacted, That a record of every such conviction shall be made in the following form

State of	}	ON the	day of
New-Hampshire.		A.D. 17	A.B. of &c. addition, w
R	ss. }	convicted before me B. C.	one

the justices of the peace for said county of

of uttering profane oath (or of uttering profane curse) and was ordered to pay a fine of therefor.

Attest, *B. C. Justice Peace.*

And all offences against this act shall be prosecuted within ten days after the offence committed, and not afterwards. Limitation.

This act passed February 10, 1791.

AN ACT to declare the use of fines and forfeitures within this State.

Approved
June 17,
1796.

BE it enacted by the Senate and House of Representatives in General Court convened, That all fines and forfeitures arising or becoming due upon judgment of any State court within this State, upon any conviction, forfeitures of recognizances, or otherwise shall be deemed and taken to belong to, and be appropriated for the use of the county where the offence shall be committed and tried, or forfeitures estreated, and that all fines and forfeitures, having been received and not paid over by any State court, justice of the peace, or other civil officer within this State, shall by them be paid over to the county treasurer for the use of the county as before directed.

Fines to be
paid over to
county treasurer.

And be it further enacted, That when it so happens that any recognizance may be forfeited in any such court, taken on complaint or otherwise, where any sum or sums, might by conviction of the principal, become due to any complainant or other person interested in the prosecution of the principal, that it shall be in the power of such courts respectively to ascertain the said sum and costs that might be due to such complainant or person so interested, and make order that such part of the forfeiture be paid him or them as will satisfy the same.

Court to ascertain, &c.

Provided always, That this act shall not alter the appropriation of any fines or forfeitures made or declared in and by any act or law of this State, where the same is expressly given to this State, or to any town within the same, or to any particular use prescribed in said act, any law, custom or usage to the contrary thereof notwithstanding.

Approved June 17, 1796.

AN

Passed Feb.
15, 1791.

Penalty for
cutting trees
&c. on ano-
ther's land.

AN ACT for preventing trespasses.
BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the publication of this act, no person shall cut, fell, destroy or carry away any trees, wood, timber or underwood whatsoever, standing, lying or growing on the land of any other person, or off, or from the commons of any town, other than that to which he doth belong, or within the same town, having no right there, without leave or licence from the major part of the proprietary of such commons, or the owner or owners of the land on which such trees, timber, wood or underwood were standing, lying, or growing; or shall cut out, or alter the mark of any mill-log or logs in any river, or mill-dam; or shall saw, or cut into any sort of lumber, any log or logs that are not their own property, without the owner's leave or licence, on pain that every person so cutting, felling, or destroying, or carrying away the same, or cutting out, or altering, or sawing any log or logs, or aiding and assisting therein, shall for every such trespass, forfeit and pay to the parties injured or trespassed upon, the sum of forty shillings for every tree or log of one foot over; and for all trees or logs of greater dimensions, three times the value thereof, besides forty shillings as aforesaid, and twenty shillings for every tree or pole under the dimensions of one foot diameter; and for other wood, or underwood, treble the value thereof; which several penalties, forfeitures and damages, shall, and may be recovered by action, upon conviction of the trespassers or trespassers, as is hereafter specially provided and enacted, before any justice of the peace, if the penalty or damage exceed not forty shillings; but if it be above that value, then before the court of common pleas.

Penalty for
destroying
fences, &c.
or digging
on another's
land.

And be it further enacted, That if any person or persons shall throw down, or leave open any bar gates, fence or fences, belonging to, or inclosing any lands holden in propriety or common, or belonging to any particular person or persons within any town in this State, or that shall dig up or carry away any stones, ore, gravel, clay or sand, belonging to the proprietors of any common land, or to any particular

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particular person or persons as aforesaid, every such offender shall for every such trespass, upon conviction thereof, as in and by this act is hereafter provided, forfeit and pay treble damages to the party or parties injured thereby; and also a sum not exceeding five pounds, according to the nature or aggravation of the trespass; to be recovered in manner as aforesaid.

And forasmuch as it is very hard and difficult to detect and convict any trespasser or trespassers against this act, in the ordinary method or course of the law, because the trespasses are generally committed where positive evidences can scarcely ever be had:

Be it therefore further enacted, That in case any dispute arise, upon any action, brought as aforesaid, where the plaintiff shall charge the defendant in trespass, for cutting, felling, destroying or carrying away any particular tree or trees, parcels of timber, wood or underwood, or for throwing down or leaving open any fence or fences, gates or bars, or for digging up, or carrying away any stones, ore, gravel, clay or sand, turf or mould, or for cutting, or altering the mark of any mill-log or logs in any river, or at any mill-dam, or on the land; or for cutting or sawing into any sort of lumber, any mill-log or logs, which are not their own property, without leave of the owner as aforesaid, or of aiding or assisting therein; then, and in such case, if the plaintiff, his agent or attorney shall make oath that there have been cut, felled, destroyed or carried away, so many trees or logs, marks of logs cut out or altered, or sawed, or cut into any sort of lumber, or carried away such and so many trees, parcels of wood or underwood, or that any fence or fences, gates or bars have been thrown down or left open, or that any stones, ore, gravel, clay or sand hath been dug up or carried away, as mentioned in the writ, and that he suspects the defendant to have committed the said trespass; and although the plaintiff may not be able to produce any other evidence thereof, than such circumstances as render it highly probable in the judgment of the court or justice that shall try the cause, or before whom the trial is; then, and in every such case, unless the defendant shall acquit himself upon oath (to be administered to him by the

Mode of
proof.

court or justice that shall try the cause) the plaintiff shall recover of the defendant, damages and costs, but if the defendant shall acquit himself upon oath as aforesaid, the court or justice may, and shall enter up judgment for the defendant, to recover against the plaintiff his double costs occasioned by such prosecution.

This act passed February 15, 1791.

Passed Nov.
26, 1778.

AN ACT to prevent trespasses upon the waste lands within this State.

Preamble.

WHEREAS sundry evil minded persons, taking advantage of the present distressing situation of the public affairs of this State, have since the commencement of the present war, without colour of right, entered into and taken possession of divers tracts of waste land within this State, being either unappropriated lands, or lands heretofore belonging to those persons who since the commencement of the present war, have gone from this or any other of the United States, and joined the enemies thereof:—For remedy whereof, and for preventing the like evil for the future :

Penalty for
trespasses on
waste lands.

BE it enacted by the Council and Assembly, and it is hereby enacted, That no person or persons shall hereafter presume, without leave of the legislature of this State, to enter into, or take possession of any of the waste lands within this State, being either unappropriated lands, or lands belonging to or forfeited by those persons, who since the commencement of the present war have gone from this, or any of the United States and joined the enemies thereof; or to continue in the possession or occupation of any of the lands aforesaid, entered into and taken possession of, without colour of right as aforesaid, for the space of three months after the passing of this act, on penalty of forfeiting the sum of one hundred pounds for each offence, to be recovered by indictment of the grand jury; the one half for the use of this State, and the other half to the use of the person who shall give information thereof to the grand jury.

And no possession being obtained or held as aforesaid, shall be of any avail in law in favor of such possessor.

This act passed November 26, 1778.

AN

AN ACT for the better observation of the LORD's DAY, and to repeal all laws heretofore made in this State for that purpose. Passed Feb, 2, 1789.

BE it enacted by the Senate and House of Representatives in General Court convened, That no tradesman, artificer, or any other person whatsoever, shall do, or exercise any labor, business, or work of their secular calling (works of necessity and mercy only excepted) nor use any game, play or recreation on the LORD's day, or any part thereof, upon pain that every person so offending, shall forfeit a sum not exceeding forty shillings, nor less than five shillings.

Labor and recreation prohibited

And be it further enacted by the authority aforesaid, That no person shall travel on the Lord's day, or any part of it, unless from necessity, or to attend public worship, visit the sick, or do some office of charity, on penalty of a sum not exceeding forty shillings, nor less than five.

Travelling prohibited.

And be it further enacted by the authority aforesaid, That no taverner, retailer or other person keeping a public house of entertainment, shall suffer any of the inhabitants of the respective towns where they dwell, or others not being strangers, or lodgers in such houses, to abide, or remain in the houses, yards, or appendages thereof, drinking, or idly spending their time on the Lord's day, upon the pain and penalty aforesaid. And the person or persons, who shall be found so drinking or abiding in such house or dependencies thereof as aforesaid, shall each suffer the like penalty.

Keepers of public houses forbidden to entertain inhabitants.

And be it further enacted by the authority aforesaid, That each town and district within this State, shall at the time of choosing town or district officers, annually and every year, appoint certain persons (being of good substance and sober life) to be tythingmen of such town or district, of which officers, no town or district shall appoint less than two, whose duty it shall be, to inform of all breaches of this act; and all such tythingmen shall take the following oath.

Tythingmen.

"You———, being chosen a tythingman for the town of——, for the year ensuing, and until another shall be chosen and sworn in your room, do solemnly swear, that you will diligently attend to, and faithfully execute the duties of said office, with-

our

Rudeness at
places of
public wor-
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out partiality, and according to the best of your discretion and judgment." *So help you GOD."*

And be it further enacted, That if any person shall on the Lord's day, within the walls of any house of public worship, or about such house, whether in the time of public service, or between the forenoon and afternoon services of said day, behave rudely or indecently, he or she shall pay a fine not exceeding ten shillings, nor less than three shillings.

Evidence re-
quired.

And be it further enacted, That the oath of any tythingman or selectman, shall be deemed full and sufficient evidence, upon trial of any offence against this act, unless in the judgment of the court or justice the same shall be invalidated by other evidence that may be produced.

Parents, &c.
liable.

And be it further enacted, That the parents of any children under age, the guardians of any minors, and the masters of servants, who shall have no parents or guardians, shall be respectively liable for the fines of their children, wards or servants, who shall be convicted of any offence against this act.

Power of
Justices.

And be it further enacted, That it shall be lawful for each and every justice of the peace, to take such assistance as shall be needful, and forcibly to stop and detain any person or persons, he shall suspect of travelling unnecessarily on said day, for and during such time, as shall be necessary for demanding the cause or reason of such person's travelling, his name and place of abode, and receiving the answer to such demands. And in case any person shall not give satisfaction to the justice demanding the same, such justice shall have full power and authority to detain in his custody such person or persons, until a regular trial can be had.

Duty of se-
lectmen and
tythingmen.

And be it further enacted, That the selectmen of the several towns and places of this State, and the tythingmen chosen and sworn as aforesaid, be, and they hereby are required to inform of all breaches of this act within their precincts. And if any person charged with a breach of this act, shall be acquitted upon trial, he shall recover costs against the complainant, unless the complainant shall be a justice of the peace, tythingman, or selectman; and in that case no costs shall be allowed to the person acquitted.

And for the better execution of all and every of the foregoing

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and pass
repealed

foregoing orders. Every justice of the peace within the county where any offence against this act shall be committed, shall have power and authority to convene before him, any person or persons offending as aforesaid, and upon his own view, or other evidence sufficient to convict any person of such offence, to impose the fine and penalty for the same with costs, and to restrain and commit the offender until the same be satisfied, or to cause such fine, penalty and cost to be levied by distress, and sale of the offender's goods, returning the overplus, if any be. All fines and penalties accruing by this act, to be for the benefit and relief of the poor of such town where the offence is committed, and delivered into the hands of the selectmen or overseers of the poor, for that purpose.

And be it further enacted, That any person shall have the right of appeal, to the court of general sessions of the peace, from any sentence of a justice given against him in pursuance of this act.

Provided nevertheless, That it shall, and may be lawful for any justice of the peace on application, to grant a licence for any person to travel, or do any secular business on said day, which shall appear to him to be a work of necessity or mercy: And such certificate shall be a bar to any prosecution therefor. And the informing officers aforesaid, shall have a right to inquire of any person apparently offending against this act, the cause or necessity of his so doing, and if he shall neglect or refuse to assign such reason or reasons as may appear on trial to be sufficient, or shew such certificate, he shall pay costs of prosecution, any other reason he shall give on trial notwithstanding.

And be it further enacted, That all prosecutions for offences against this act, shall be commenced within thirty days after the offence shall have been committed, and not afterwards.

And be it further enacted, That an act entitled "An act for the better observation and keeping the Lord's day," passed in the late province, now State of New-Hampshire, in the year of our Lord, seventeen hundred;—And also an act entitled, "An act for the better observation and keeping the Lord's day, made and passed June 23d, 1785, be, and they hereby are repealed.

And

Justices to determine.

Appeal.

Justices to grant licences.

Limitation.

Repealing clause.

Recommendation.

And it is hereby recommended to the ministers of the gospel, to read this act publicly in their congregations annually, on the Lord's day next after the choice of town officers.

This act passed February 2, 1789.

Passed Feb.
17, 1791.

AN ACT to prevent incestuous marriages and to regulate divorces.

Degrees of
kindred for-
bidden to
intermarry.

BE it enacted by the Senate and House of Representatives in General Court convened, That no man or woman shall intermarry within the degrees hereafter mentioned, that is to say,

No man shall marry his

Father's sister,
Mother's sister,
Father's widow,
Wife's mother,
Daughter,
Wife's daughter,
Son's widow,
Sister,
Son's daughter,
Daughter's daughter,
Son's son's widow,
Daughter's son's widow,
Brother's daughter,
Sister's daughter,

No woman shall marry her

Father's brother,
Mother's brother,
Mother's husband,
Husband's father,
Son,
Husband's son,
Daughter's husband,
Brother,
Son's son,
Daughter's son,
Son's daughter's husband,
Daughter's daughter's husband,
Brother's son, [band,
Sister's son.

Incestuous
marriages.

And if any man or woman within the degrees aforesaid, shall intermarry, every such marriage shall be taken, deemed and adjudged to be incestuous, and the issue of such marriages shall be deemed illegitimate, and be subjected to all the legal disabilities of such issue.

And every man or woman within the degrees aforesaid, who shall hereafter marry, or carnally know each other, and who shall be thereof convicted before the superior court of judicature, shall be set on the gallows one hour with a rope about his or her neck, and the other end thereof cast over the gallows, fined a sum not exceeding one hundred pounds, imprisoned a term not exceeding one year, and bound to good behavior for a term not exceeding five years, any

all

all of the foregoing punishments, in the discretion of the court, before whom the conviction shall be.

And be it further enacted, That divorces from the bond of matrimony shall be decreed in case the parties are within the degrees aforesaid; or either of them had a former husband or wife alive at the time of solemnizing such second marriage, knowing them to be alive; or for impotency, for adultery in either of the parties, or where either of the parties shall be absent for the space of three years together, and shall not be heard of; or where the husband shall willingly absent himself from the wife, for the space of three years together, without making suitable provision for her support and maintenance, where it is in his power so to do.

Causes of divorce.

And divorces may be granted for the cause of extreme cruelty in either of the parties.

And the justices of the superior court of judicature, may in all cases where a divorce is decreed, restore to the wife all or any part of her lands, tenements and hereditaments, and may assign to the wife such part of the real and personal estate of her late husband, as all circumstances duly considered, they may think just and reasonable, and they may use such process to carry their judgment into effect as may be necessary, and may compel the husband to disclose on oath, what personal estate he hath received in right of his wife, and how the same hath been disposed of, and what proportion thereof remained in his hand, at the time of such divorce.

Superior court may restore the wife her property.

Provided always and be it further enacted, That no such decree of divorce, or to dissolve the bonds of matrimony shall operate to affect the legitimacy of any issue, born or begotten in lawful matrimony, unless it shall be so expressed in such decree.

Issue not affected by divorce.

This act passed February 17, 1791.

AN ACT regulating marriages, and for the register-
ing of marriages, births and burials. Passed Feb.
15, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That every ordained minister of the gospel, in the county where he

Ministers or
justices to
join persons
in marriage.

Persons to
be published
before mar-
riage.

Penalty for
marrying
without cer-
tificate.

Penalty for
any person's
marrying,
except mini-
sters and jus-
tices.

Persons
marrying to
record.

he is settled, or hath his permanent residence, and in no other place, and every justice of the peace, in the county for which he is commissioned, and in no other place whatsoever, shall be, and hereby are authorized and empowered to solemnize marriages, between persons who may lawfully enter into that relation.

And be it further enacted, That all persons desiring to be joined in marriage, shall have such their desire or intention published at three several public meeting days, or three sabbath days, in the respective towns or places where the parties so desiring to be joined in marriage dwell or reside, by the clerks of such towns or places; and the persons desiring to be joined in marriage, shall produce to the justice or minister who shall be desired to marry them, a certificate of such publishment under the hand of the clerk or clerks so publishing them, and in case either of the parties desiring to be married, live in a town or place where there shall be no clerk, then publishment shall be made in the town or place next adjoining, in manner as aforesaid.

And be it further enacted, That if any justice of the peace or minister shall join any persons in marriage without a certificate as aforesaid; or shall otherwise than is expressly allowed by this act, join any persons in marriage, they shall severally forfeit and pay the sum of twenty pounds, to the use of any parent, master, guardian, or next friend to either of the parties so married, who may sue therefor in any court proper to try the same.

And if any person not authorized and empowered to solemnize marriages by this act, shall join any persons in marriage, whether with or without publishment, and be convicted thereof in the superior court of judicature, upon indictment, he shall be subjected to pay a fine at the discretion of the court to the use of the county where the offence may be committed, the fine not to exceed one hundred pounds, nor be less than thirty.

And be it further enacted, That every justice of the peace, minister of the gospel, and clerk of the people called Friends or Quakers, shall make and keep a particular record of all marriages solemnized before them respectively, and shall in the month of March every

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every year, make a return to the clerk of the town or place where such minister, justice or clerk of the society of the people called Quakers lives, of the names (both christian and sir names) of all persons who have been by, or before them respectively joined in marriage, within the year last past, and the places of their abodes, and the time when they were joined together in marriage.

And be it further enacted, That the persons joined in marriage by any minister or justice, shall pay therefor to the said minister or justice the sum of six shillings.

Fee for marrying.

And be it further enacted, That the clerk of every town or place shall record in the book of records, belonging to such town or place, all certificates of marriages returned to him as aforesaid, and the said minister, justice or clerk of the society of the people called Quakers, shall pay the said town clerk for every marriage by them respectively returned or certified, four pence as a fee for recording the same.

Town clerks to record marriages.

And be it further enacted, That the clerk of every town and place in this State, shall record births and burials, and all persons concerned, are to give notice of such births and burials to the clerk, within one month, and pay two pence for every birth or burial by the said clerk recorded.

Births and burials.

And be it further enacted, That nothing in this act shall be construed to affect the right of the people called Quakers, to solemnize marriages in the way and manner usually practised in their meetings; but all such marriages so solemnized shall be good and valid in law, any thing in this act to the contrary notwithstanding.

Marriages among Quakers.

And be it further enacted, That any minister, justice or clerk of any society of the people called Quakers, who shall neglect to make the return of the marriages by or before them solemnized, as before mentioned, to the town clerk, shall for every neglect, severally forfeit and pay to any person who will sue for the same, the sum of forty shillings, and if any parent shall neglect, for one year after the birth of any child, to make return to the clerk of the town or place, in which such child is born, of the time of the birth of such child, the person so neglecting shall

Penalty for neglecting to make return to town clerk.

forfeit and pay to the person suing for the same, the sum of twenty shillings.

This act passed February 15, 1791.

Passed Feb.
11, 1791.

Reputed father chargeable.

AN ACT for the maintenance of bastard children.
BE it enacted by the Senate and House of Representatives in General Court convened, That when any woman shall be pregnant with a child, which if born alive, may be a bastard, and such woman shall previous to her delivery, on oath before a justice of the peace, voluntarily charge any man with being the father thereof, and shall also declare as near as may be the time when, and place where it was begotten, and shall continue constant in such accusation, and shall in the time of her travail declare the same person to be the father of such child, to the midwife or other person attending her, if any person or persons do attend her at the time, and he shall be prosecuted as the father of such child, before the court of general sessions of the peace, in the manner herein prescribed, in which prosecution she shall be admitted as a competent witness, her credibility being left to the court or jury who try the prosecution, he shall be adjudged chargeable with the maintenance of such child, with the assistance of the mother, as the court of general sessions of the peace, considering the condition and circumstances of the man so adjudged chargeable, and the mother, shall in their discretion order; and the person or persons upon whom any such order may be made, shall give security to perform the same, and the said court may order the said person adjudged chargeable as aforesaid, or the mother, or both, as they may think just and proper (all circumstances duly considered) to give security to save the town or place (which might be otherwise chargeable with the maintenance of such bastard) harmless and free from any charge for the maintenance of any such child; and the person or persons refusing or neglecting to give such security, may be committed to prison until the same be given.

Provided always, That if the pleas and proofs made and produced on the part and behalf of the man so

accused

accused, and other circumstances, be such as to satisfy the court or jury who try the prosecution, that he ought not to be charged with the maintenance, he shall be acquitted and shall be allowed his costs, to be taxed in usual form, as in civil causes, and execution to issue accordingly.

And be it further enacted, That if either party shall request it, the prosecution shall be tried by a jury, and the issue shall be, whether chargeable or not. Trial by jury if requested.

And be it further enacted, That no woman shall be admitted as a witness as aforesaid, who hath been convicted of any crime, which would by law disqualify her from being a witness in any other cause. Competency of the witness.

And be it further enacted, That every justice of the peace to whom complaint is made against any man charging him with having begotten any such bastard child, may convene such man before him, and at his discretion may bind him to the next court of general sessions of the peace, with sufficient surety or sureties to answer such charge and to abide the order of said court thereon, and the said court may take security by way of recognizance, of the person so charged, for his appearance at any future term as may be necessary. Justice to bind over the reputed father.

This act passed February 11, 1791.

AN ACT for the suppressing of lotteries.

Passed Feb.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any person or persons shall undertake to set up any lottery, or expose to sale, or dispose of any estate, real or personal, by way of lottery, such person or persons shall for every such offence, forfeit and pay the sum of two hundred pounds, to be recovered by action of debt in the court of common pleas in the county where the offence is committed, the one half thereof to the prosecutor, and the other half to the use of the county.

14. 1791.

And be it further enacted, That if any person or persons shall be aiding or assisting in any lottery, by printing, or any other ways publishing an account thereof, or where tickets may be had for the same, such person or persons shall forfeit the sum of fifty pounds, to be recovered and disposed of in manner aforesaid. Penalty for assisting.

And

Penalty for
selling tick-
ets,

And be it further enacted, That if any person or persons shall offer or expose to sale, give, sell, or otherwise dispose of to any person in this State, any such lottery ticket, such person shall forfeit the sum of one hundred pounds for each ticket so exposed to sale, or otherwise disposed of; the said forfeiture to be recovered in manner aforesaid, and to the use aforesaid.

except estab-
lished by
law.

Provided always, That nothing in this act shall be construed to extend to any lottery allowed, or that shall hereafter be allowed by act or law of the legislature of this State, or of the United States, or of either of them.

This act passed February 14, 1791.

Passed Feb.
12, 1791.

AN ACT to restrain the taking of unlawful interest.

Lawful inter-
est re-estab-
lished.

BE it enacted by the Senate and House of Representatives in General Court convened, That no person or persons, upon any contract which shall be made, shall take either directly or indirectly, for the loan of any money, wares, merchandize, or any other personal estate whatever, above the value of six pounds for the use and forbearance of one hundred pounds for a year, and after that rate for a greater or less sum, or for a longer or shorter time.

Penalty for
taking ille-
gal interest.

And all and every person and persons who shall hereafter upon any contract take, accept and receive by way or means of any corrupt bargain, loan, exchange, or by covin, or deceitful conveyance, or by any other way or means, for the forbearing or giving day of payment for one whole year of, and for the money, or other personal estate above the sum of six pounds for the forbearance of one hundred pounds for a year, and so after that rate for a greater or less sum, or for a longer or shorter time, shall forfeit and loose for every such offence, three times the sum above the lawful interest so taken; one moiety to the use of the prosecutor, and the other moiety to the use of the county in which the offence is committed with costs of prosecution.

Manner of
proof.

And be it further enacted, That when any person or persons shall be sued on any bond, contract, mortgage or any assurance given, or made hereafter for the payment

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ment of any money, goods or personal estate, whereon or whereby any sum is given, secured or taken for the forbearing or giving day of payment, more than the lawful interest, that is, more than at the rate before mentioned, then if the debtor or debtors (the creditor being alive) shall come into court where the cause is to be tried, and shall offer to make oath, and if required by the court, actually swear that there is taken, received or secured by such bond, contract, mortgage, or assurance above the rate of six pounds in the hundred for the forbearance of the same, whether it be for money or other things for one year, and so after that rate, for any greater or less sum, or for a longer or shorter time, or that the creditor or creditors have received more than after the rate of six pounds in the hundred for the forbearance, or loan of any sum of money or other personal estate, or thing sued for per annum, in rendering judgment upon such bond, contract, mortgage or assurance, the court shall deduct from the sum lawfully due, by or upon such contract or other assurance as aforesaid, a sum equal to three times the sum above the lawful interest taken, secured, given or received on or by such contract, or other assurance; unless the creditor or creditors will swear that he, she or they have not directly or indirectly, willingly taken or received more than after the rate of six per cent. per annum for forbearance, or giving day of payment, and that by such bond, contract, mortgage or assurance, there is not reserved, secured or taken more than after the rate of six per cent. per annum for forbearance or giving day of payment for the money, goods or things sued for or demanded.

Provided always, That nothing in this act shall extend to the letting of cattle, or other usages of the like nature, in practice among farmers, or to maritime contracts among merchants, as bottomry, insurance, or course of exchange, as hath been heretofore used.

This act passed February 12, 1791.

AN ACT to prevent the spreading of the small-pox, for allowing hospitals to be erected under certain restrictions, and to repeal an act, entitled, "An act

Passed Feb.
3, 1789.

act providing in case of sickness." Also an act, entitled, "An act to prevent the spreading of the small-pox in this State."

Preamble.

WHEREAS the salutary purposes of the laws providing in cases of sickness, and for preventing the spreading of the small-pox in this State, are not sufficiently answered thereby :

Therefore,

Justices of
Inferior
court to li-
cense hospi-
tals.

BE it enacted by the Senate and House of Representatives in General Court convened, That the before recited acts be, and they hereby are repealed ; and that the justices of the inferior court of common pleas in the respective counties in this State, shall on proper application to them made, grant a licence for one or more buildings to be erected, or improved for the purpose of inoculating persons for the small-pox in any town, parish or place within this State, under such regulations as they may think proper, provided the consent of the town, parish or place can be previously obtained therefor.

Justices of
Inferior
court to li-
cense physi-
cians of hos-
pitals.

Be it enacted, That the justices aforesaid shall, and may from time to time, licence such physician or physicians to take care of, and superintend such hospitals as they shall think proper, and that the physician and physicians, so from time to time licensed, shall give bond to the justices aforesaid, in the sum of one thousand pounds, for the faithful discharge of the trust reposed in them, and that they will take every precaution, and use all means in their power to prevent the spreading of said disorder, and that they will not inoculate and suffer any person to have the small-pox in any other place, than the hospital or hospitals licensed as aforesaid, or willingly suffer the same to be done.

Selectmen to
remove per-
sons infected.

And be it further enacted, If at any time it shall happen that the small-pox shall break out in any town, parish or place, in this State, the selectmen of such town, parish or place, or the major part of them may remove any persons infected to any place where permission may be obtained from such justices, or where there is no hospital appointed, to any place remote from inhabitants, provided that no person or persons shall in any case whatever, be removed, unless the physician attending him, her or them so in-
fected

infected, shall be of opinion that such removal will be safe, and no ways dangerous to the life of such person or persons.

And be it further enacted, That if any person from and after the passing of this act, shall with intent to spread the small-pox, and communicate the same to any person, bring any infectious matter into the State, or shall use such infectious matter so as to communicate the same, or shall presume to inoculate him or herself, or any other person with the small-pox, or shall be inoculated therefor, each person so offending, shall pay a fine of fifty pounds lawful money, to be recovered by bill, plaint or information before the superior court of judicature within this State, the one half thereof to the use of the informer or prosecutor, and the other half to the use of the town where such offence shall be committed.

Penalty for spreading small-pox.

And be it further enacted, That if any physician or physicians, or other person not licensed as aforesaid, shall presume on any pretence whatever, to inoculate any person or persons with the small-pox, the person so offending shall pay a fine of one hundred pounds, to be recovered and appropriated as in this act is above provided.

Fine for inoculating without licence.

And be it further enacted, That if any person or persons, seamen or passengers belonging to, or on board any vessel arriving at any port or harbor within this State, shall be infected with the plague, small-pox, pestilential or malignant fever, during the voyage, the commander of such ship or vessel, shall immediately on his entrance into such port or harbor, cause his vessel to be anchored and give information thereof to the commanding officer of Fort William and Mary, if the vessel happens to be in Piscataqua harbor, or in case of the vessel's being in any other port, to the nearest field officer of the militia, whose business it shall be immediately to notify the president, or in his absence two of the council, and receive their directions. And if the commanding officer shall suffer any person or thing to be landed, or placed on shore out of said vessel, without permission obtained either from the president, or in his absence from two of the council, he shall forfeit and pay the sum of one hundred pounds, to be recovered and appropriated

Masters of vessels to give notice.

propriated as aforesaid. And if any person who may come in such vessel, either as seaman or passenger, shall presume to come on shore before licence is obtained as aforesaid, he shall forfeit the sum of fifty pounds to be recovered and applied as aforesaid.

This act passed February 3, 1789.

Passed Dec.
25, 1792.

AN ACT for the repeal of a certain clause of the act for preventing the spreading of the small-pox, made and passed the third day of February, Anno Domini 1789, and in addition to, and amendment of the said act.

Preamble.

WHEREAS the last clause of the aforementioned act hath been found not to answer the good purposes thereby intended :

Therefore,

Repealing
clause.

BE it enacted by the Senate and House of Representatives in General Court convened, That the said last clause, be, and the same is hereby repealed.

Masters to
give infor-
mation.

And be it further enacted, That whenever any ship or other vessel shall arrive in any port in this State having any person on board infected with the plague small-pox, pestilential or malignant fever, or shall have been so infected during the voyage, or having on board any goods which may reasonably be apprehended to have any infection of such diseases, it shall be the duty of the master or commander of such ship or vessel to give immediate information thereof to the selectmen of Portsmouth, and it shall be the duty of the selectmen of Portsmouth, upon information of the arrival of such ship or vessel, and they hereby are empowered immediately to take such prudential methods and precautions as to them appear necessary, to prevent the spreading such infection, and may order and appoint the distance at which such ship or vessel shall lie from the shore, and shall have power to remove the same at the expense of the owner or master, if the master or commander shall refuse or neglect to remove after receiving from said selectmen an order therefor—and the said selectmen are hereby further empowered to forbid or prevent any person coming on shore from such ship or vessel, or any goods being landed from

Duty of se-
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the same until such precautions be taken as the public safety may to them appear to require. And if the commanding officer of any such ship or vessel shall suffer any person or thing to be put on shore without permission first obtained therefor, under the hands of the said selectmen, or a major part of them, he shall forfeit and pay the sum of four hundred dollars, to be recovered and appropriated as in the aforementioned act is provided for the recovery and appropriation of forfeitures.

No person or thing to be landed without permission.

Penalty.

And be it further enacted, That if any person come on shore from any such ship or vessel without such liberty, any justice of the peace may cause such person to be confined in such proper place as the selectmen aforesaid may appoint, for a term of time not exceeding thirty days, at his own expense, to be recovered by them, by action of debt in any court proper to try the same.

Justices of peace may confine, &c.

And be it further enacted, That the said selectmen shall have full power to seize and keep any goods landed from such vessel, without such leave, until they shall cause the same to be cleansed at the expense of the owner of such goods—and if the owner neglect to pay such expense, the selectmen shall have power to sell so much of the goods as will defray the reasonable charges of seizing, keeping and cleansing the same.

Selectmen empowered to seize goods.

And be it further enacted, That it shall be part of the condition of the physician's bond taken in pursuance of the act aforesaid, that he will use every precaution to prevent the spreading the small-pox, and will not suffer any person to depart from the hospital until he be effectually cleansed, and will then give such person a certificate thereof under his hand.

Physician's bond.

And be it further enacted, That if any person after having had the small-pox, in any licensed hospital, shall leave the same without such certificate, or be taken or found without the same within one month afterwards, he shall forfeit and pay the sum of fifty dollars, to be sued for, and appropriated in manner aforesaid.

Penalty for not having a certificate.

Provided always, That whenever any person shall break out with the small-pox in the natural way, in any town within this State, and in the opinion of the selectmen,

Proviso.

lectmen, he may without danger remain without communicating the disorder to any but his own family—and if the family or any other person has been exposed to the danger of taking said disorder, the selectmen may grant license for any such person to be inoculated, who with the physician shall not in such case be liable to the penalties of this and the aforementioned act.

This act passed December 25, 1792.

Passed June
18, 1789.

AN ACT for the better regulation of Schools within this State, and for repealing the laws now in force respecting them.

Preamble.

WHEREAS the laws respecting schools have been found not to answer the important end for which they were made :

Therefore,

Repealing
clause.

BE it enacted by the Senate and House of Representatives in General Court convened, That all the laws of this State respecting schools, be, and they hereby are repealed.

Selectmen to
assess the in-
habitants for
school tax.

And be it further enacted, That the selectmen of the several towns and parishes within this State be, and they hereby are empowered and required to assess annually the inhabitants of their respective towns, according to their polls and rateable estates in a sum to be computed at the rate of five pounds for every twenty shillings of their proportion for public taxes for the time being, and so for a greater or lesser sum ; which sums when collected shall be applied to the sole purpose of keeping an English grammar school or schools, for teaching reading writing and arithmetic within the towns and parishes for which the same shall be assessed ; except said town be a shire or half shire town, in which case the school by them kept, shall be a Grammar school for the purpose of teaching the Latin and Greek languages, as well as reading, writing and arithmetic as aforesaid.

School mas-
ters to pro-
duce a certi-
ficate

And be it further enacted, That no person shall be deemed qualified to keep any such school, unless he produce a certificate from some able and reputable school-master, and learned minister, or preceptor of

some

some academy, or president of some college, that he is well qualified to keep such school.

And be it further enacted, That if the selectmen of any town or parish, neglect to raise and appropriate for the aforesaid purposes, the money required by this act to be by them assessed, collected and appropriated, such selectmen shall forfeit and pay the full sum, which they shall be so found delinquent in assessing, seasonably collecting and duly appropriating; which sum shall be recovered by bill, plaint or information in any court proper to try the same; and when recovered, shall be appropriated for the purpose of keeping a school in the town where such delinquency shall happen, which sum shall be paid out of the goods and estate of such selectmen. And it shall be the duty of the town clerk for the time being, of the respective towns or parishes, to see that the sums recovered of such delinquent selectmen be appropriated agreeably to the true intent and meaning of this act.

Penalty on selectmen for neglect.

Provided, That this act shall not be construed to extend to the lands of non-residents, but that the sum raised be in proportion to the value of the polls and estates of the inhabitants.

Lands of non-residents excused.

Provided, That the operation of this act be suspended until the first day of March next.

This act passed June 18, 1789.

AN ACT in addition to an act passed the eighteenth of June, A. D. one thousand seven hundred and eighty-nine, entitled "An act for regulating schools in this State, and for repealing all acts heretofore made respecting the same."

Passed Dec. 10, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That instead of the sum of five pounds, to be raised on every twenty shillings, in the proportion act, there shall be levied and assessed the sum of seven pounds ten shillings to be collected and appropriated in the same way and manner as in and by said act is provided.

This act passed December 10, 1791.

AN

Passed Nov.
7, 1783.

AN ACT for the encouragement of literature and genius, and for securing to authors the exclusive right and benefit of publishing their literary productions for twenty years.

Preamble.

AS the improvement of knowledge, the progress of civilization, and the advancement of human happiness, greatly depend on the efforts of learned and ingenious persons in the various arts and sciences ; as the principal encouragement such persons can have to make great and beneficial exertions of this nature, must consist in the legal security of the fruits of their study and industry to themselves ; and as such security is one of the natural rights of all men, there being no property more peculiarly a man's own, than that which is produced by the labor of his mind ; Therefore, to encourage the publication of literary productions, honorary and beneficial to the public ;

Books, &c.
the sole property of the
authors.

BE it enacted by the Council and House of Representatives in General-Assembly convened, and by the authority of the same, That all books, treatises, and other literary works, having the name or names of the author or authors thereof, printed and published with the same, shall be the sole property of the said author or authors, being subjects of the United States of America, their heirs and assigns, for the full and complete term of twenty years from the date of their first publication.

Penalty for
printing
books, &c.
without consent of the
author.

And be it further enacted by the authority aforesaid That if any person or persons shall print, re-print, publish, sell, or expose to sale ; or shall cause to be printed, re-printed, published, sold or exposed to sale any book, treatise, or other literary work, not yet printed, written by any subject of the United States of America, whose name as author, shall have been thereto prefixed, without consent of the author or authors, or their assigns, during said term, shall forfeit and pay a sum not exceeding one thousand pounds, nor less than five pounds, to the use of such author or authors, or their assigns ; to be recovered by action of debt, in any court of record proper to try the same.

Provided always, That this act shall not be construed to extend in favor, or for the benefit of any author or authors, subject or subjects of any other of the United

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United States, until the State or States of which such authors are subjects, shall have passed similar laws, for securing to authors the exclusive right and benefit of publishing their literary productions.

This act passed November 7, 1783.

AN ACT for laying out highways.

Passed Feb. 8, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That at any time hereafter, when there shall be occasion for any new highways or private roads, to be laid out in any town or place in this State, the selectmen of such town or place, be, and hereby are empowered, on application made to them, if they see cause, to lay out the same, whether such highway or road be for the benefit of the town, or public in general, or for the benefit of the person or persons applying only; and if such road be for the benefit of the town or public, due recompence shall be made by the town to the owners of the land through which such road is laid out, for all damages such owners sustain thereby, and if such road be only for the benefit of an individual or individuals applying for the same, then the recompence shall be made by such individual or individuals; and no road shall be returned and recorded for the benefit of individuals only, unless the damage done to the owners of the lands through which the same is laid out, be ascertained and paid, or tender thereof be made.

Selectmen to lay out highways in their towns.

And in case there be occasion for any new highway to be laid out from town to town, through several towns, and such towns cannot agree as to the place of laying out the same; or in case there should be occasion to lay out an highway through a tract of land unincorporated, in any county in this State, the court of general sessions of the peace for such county, by action on petition to them for that purpose, shall in such manner as they shall think proper, lay out the same, and a record thereof shall be made. And the committee of the said court who lay out any such highway, shall also estimate the damage done to any owner of land, through which the same is laid out, and such damage

Court of sessions to lay out highways through several towns

damage shall be paid by the town, in and through which such highway is laid out. Provided that the selectmen of such towns shall be duly notified by the sessions of any such petition for an highway, before the same shall be laid out, and when the way petitioned for, or any part thereof, shall run through lands unincorporated, the substance of the petition, and order of court thereon, shall be published in such newspaper as the said court shall order, three weeks successively, that the owner of such land, through which the highway is petitioned to be laid out, may object thereto.

Sessions to
lay out high
ways where
selectmen
neglect it.

And be it further enacted, That in case the selectmen of any town refuse or neglect, when petitioned to lay out any highway, the court of general sessions of the peace, on petition exhibited to them, may, if they think it proper, cause such highway to be laid out: Provided always, that the selectmen of such town shall be duly notified before any such highway be laid out.

Sessions may
order com-
pensation.

And any person who may think himself aggrieved by the selectmen in not making sufficient allowance or in not paying for any highway laid out through his land, may apply, by petition, for redress, to the court of general sessions of the peace, which court may inquire into the same by a committee, and order such redress, as they may on hearing the parties, or such of them as may attend on due notice given, think proper. And the said court, in all cases of application to them, may order either of the parties, as they may think just, to pay costs; and in all cases may issue execution for damages and costs, or costs only, as in other cases.

Provided always, That the costs of laying out highways from town to town, or through lands not incorporated, on original application made to the sessions, shall be paid by the county.

Towns may
change their
high ways.

And be it further enacted, That the inhabitants of any town in this State, at any legal meeting, holden for that purpose, may discontinue any highway laid out by order of any such town, or the selectmen thereof, and where such way was laid out by the court of general sessions of the peace, then with the consent of such court, but not without, and may

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the land taken up in such highway, or exchange the same for some other land where an highway may more conveniently be laid out and occupied. And they may also sell or exchange any land left or appropriated in such town for highways, though not actually improved for that purpose, in the same manner as they may sell or exchange the land of highways improved or occupied.

This act passed February 8, 1791.

AN ACT for mending and repairing the highways in this State. Passed Feb. 27, 1786.

BE it enacted by the Senate and House of Representatives in General Court convened, That every town and parish within this State, invested with town privileges, shall at their annual meetings in the month of March, or at any other legal meeting, vote such sum of money as they shall think proper for making, mending and repairing the several highways and bridges in said town or parish, for that year. And the selectmen of said towns and parishes, are hereby ordered to make an assessment upon the polls and estates of the inhabitants, of their respective towns and parishes, in the same manner as for the State tax; and said towns and parishes, may, at their said meetings, choose as many surveyors of high ways as they may think proper; and the selectmen shall, on or before the first day of June next, after the choice of such surveyors, limit their several districts, and give to each surveyor a list of each person belonging to his district, and of their respective proportion of the sum voted to repair the highways as aforesaid. And the towns and parishes may, at the time of voting said money, affix the price of the several sorts of utensils and materials to be employed about said highway for that year, as also the price of labor; and if they neglect it, the said prices to be set by the selectmen. And the surveyors are directed to warn the several inhabitants of their respective districts to work on said ways, each man his proportion of said sum at the prices affixed; and every surveyor shall give four days notice (which notice shall be personal, or left

Towns to raise money for repair of highways.

Surveyors.

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in writing at the parties last and usual place of residence) to every person he shall warn of the time and place, and tools, when, where, and with which such person shall attend; except in cases of sudden emergencies, as the repairs of bridges, and making paths in deep snows, which may require immediate remedy; in which cases, it may and shall be lawful for the surveyor to warn them, or any of them to attend forthwith. And if any person shall refuse or neglect to work, or send a sufficient hand (unless he shall make a reasonable excuse to said surveyor within four days after the time set for said labor, in which case he shall be notified to work at some other time) the said surveyor is hereby authorized and required to levy the delinquent's part or proportion of said money by distress, in the same manner as the several constables and collectors are enabled by law to do in collecting the State tax. And the surveyors are hereby directed to settle accounts with, and pay the balance, if any there be in their hands, to the selectmen or town treasurer, agreeable to the warrants and directions given them for that purpose; and if any of the surveyors refuse or neglect their duty herein, the selectmen or treasurer for the time being, are hereby authorized to proceed with such surveyors in the same way and manner, as they are by law authorized to proceed with constables or collectors, who are delinquent in collecting and paying the taxes committed to them to collect.

And whereas it may happen, that by some unforeseen accident, as the decay of bridges, or their being carried off by freshets, the sum allotted to any particular district may prove insufficient:

Be it enacted by the authority aforesaid, That in such cases, the selectmen may order the surveyors or surveyors of any district or districts, with such persons in his or their list, as have not worked out, to satisfy their respective rates, to work where such accident shall happen.

And whereas the surveyors of highways are annually chosen in the month of March, and some time elapses before the selectmen can set off their districts, and make their list of rates so as to enable them to enter on the duties of their office:

Selectmen
may order
surveyors
into other
districts.

Be it therefore enacted, That the surveyors of highways, shall hereafter be considered as beginning their office, the first day of June next following their appointments in March, and to continue in office for the term of one year from the time of beginning said office.

When surveyors shall begin their office.

And be it further enacted, That in case any special damage shall happen to any person or persons, or to his or their teams or carriages, by means of the insufficiency or want of repairs of any high ways or bridges, in any town or parish within this State, the party aggrieved shall recover his or their damage, in an action against such town or parish. And the said town or parish shall have a remedy over against any surveyor or surveyors through whose fault or neglect the same happened; and surveyors of highways are hereby authorized and empowered to purchase, at the cost and charge of their respective towns and parishes, all such timber, plank and other materials, as are necessary for mending and repairing the highways and bridges in their respective districts.

Remedy for damage done by bad highways or bridges.

And whereas many persons within this State, make a practice of unloading and laying down in the streets or highways, masts, spars, mill-logs, boards, plank, timber and other lumber, firewood, and rocks for building, to the great incumbrance of said streets and highways, so as to render them almost or altogether impassable: For prevention whereof,

Be it further enacted by the authority aforesaid, That in any of the cases afore-mentioned, the surveyor of the district, where any such incumbrance shall be, shall make complaint in writing to some justice of the peace for the county, dwelling in the same town, or in one of the next adjacent towns to the place where the offence is committed; which justice, upon his own view of such incumbrance, shall and may, by warrant under his hand and seal, directed to such surveyor, cause the same immediately to be removed so far as the said justice may judge necessary for the public good; and may, and shall also therein order so much thereof to be sold by such surveyor, as shall be adjudged by said justice, necessary to pay the legal costs which said justice shall tax, and three times the price of the labor of removing the same, which

Incumbrances on highways to be removed by warrant from a justice.

Highways thro' land not incorporated to be repaired by owner of such lands.

New highways laid out thro' unincorporated lands.

labor shall also be estimated by said justice. And all highways already laid out, or hereafter to be laid out through any tracts of land not incorporated, shall be made passable and kept in repair by the owner or owners of the lands through which they run, and all the proprietors or owners of any unincorporated tract of land holding under one title, whether the same be a tract held under a grant or charter from the crown of England, made by any of the late governors of New-Hampshire, or by any deed, grant or charter from the proprietors of the land purchased of John Tufton Mason, Esq. or any tract of land held in common and undivided by said last mentioned proprietors, or any tract divided and severed by them among themselves at any one time, so far or so much thereof as may remain unincorporated, shall be considered as held to pay their proportions, according to their interest, of all cost of making or repairing the highways through any part of said tract. And the court of general sessions of the peace, whenever they shall cause any new highway to be laid out through such unincorporated tract of land, shall cause an advertisement thereof, to be printed in one of the New-Hampshire newspapers, four weeks successively, expressing the return, or laying out of such highway, and requiring the proprietors of the land to make the same passable within such reasonable time as the said court shall therein prefix. And in case the same shall not be complied with, to the satisfaction of the court, the said court shall proceed to assess the said tract of land at so much per acre as they may judge necessary to repair said highway through the same. And the treasurer of such county shall forthwith cause such tax to be advertised in manner aforesaid, requiring each and every of the owners of any part of said tract, to pay said tax to said treasurer, in sixty days from the first publishing said advertisement, or that the same will be sold at vendue, at a certain day and place. And every owner of any part of said tract, shall pay said tax for his part of said tract, and take a receipt describing the land for which he pays. And the remaining part of said tract for which the said tax is not paid by the expiration of said sixty days, may be sold by such treasurer, or his successor,

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Encroachment upon highways.

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at public vendue, at the time and place that shall be set forth in said advertisement, or so much thereof as may be necessary to pay said tax, with incidental charges; and such treasurer or successor, is hereby authorized to make and execute a good deed or deeds thereof, allowing the same time for redemption, as is by law allowed in other cases of land sold for taxes; and the money so raised, shall be applied by said court, or by a committee appointed by them for that purpose, to make and repair said highways. And a similar method shall be taken from time to time by said court, for keeping in repair all highways running through lands not incorporated, in case the owners of such lands shall neglect the same. And the proprietors and owners of the aforesaid unincorporated tracts of land, are hereby authorized to call meetings for the purpose of voting such sums of money from time to time, as they may think necessary for making and repairing said highways, and choosing officers for levying and collecting the same, as fully to all intents and purposes, as proprietors of common and undivided lands are by law authorized to do.

This act passed February 27, 1786.

AN ACT to prevent encroachments upon highways. Passed Feb. 27, 1786.
FORASMUCH as divers incumbrances and encroachments have been made, or hereafter may be made, in and upon the common roads, highways and streets, heretofore laid out, or which shall hereafter be laid out, within the several towns of this State;

Preamble.

For remedy whereof,

BE it enacted by the Senate and House of Representatives in General Court convened, That henceforth no edifice, building, or fence whatever, shall be raised, erected, built, or set up in, upon or over any of the said roads, highways, streets, lanes or alleys within this State, or any part of any of them, whereby to streighten the passage, or any ways lessen the full breadth of any such roads, highways, streets, lanes or alleys; and if any edifice, building, or fence whatsoever, shall be raised, erected, built, or set up, or being erected, shall be continued upon, in or over any

No buildings to be set on highways.

Sessions to
order such
buildings
demolished
and punish
the offender

No person
to damnify
highways.

any such road, highway, street, or alley, contrary hereunto, every such edifice, building or fence shall be deemed and held to be a common nuisance. And the court of general sessions of the peace within the county where such offence may be committed, upon indictment and conviction of the offender, are hereby empowered to order, and cause such edifices, buildings or fence to be taken down, demolished, and removed, and further, to punish the offender by fine, not exceeding ten pounds and costs of prosecution. *Provided nevertheless*, That this act shall not be intended, or construed to intend, the prohibiting of the setting up of any conduit, watch-house, cage, or stocks, for the public use, in or upon any highway or street within this State. And no person shall presume, wantonly or illegally to hurt or damnify any highways, causeways, or bridges, within this State, by destroying or taking away any of the plank, posts, timbers, or rocks thereof, or by digging any pit therein for gravel, clay, or any other cause whatever upon the penalty aforesaid upon being convicted as aforesaid. But if the damage is supposed not to exceed the sum of twenty shillings, any justice of the peace for the county where the offence is committed may take cognizance thereof, and on conviction punish the offender by fine, not exceeding forty shillings, and costs, with liberty to appeal to the next court of sessions of the peace for said county.

Provided, That this act shall not be construed to hinder the setting up of any gate, in or upon any highway leading through any meadow or interval land, liable to freshets, as hath been customarily done.

This act passed February 27, 1786.

Approved
Feb. 28,
1794.

AN ACT establishing a road laid out from Hale's bridge (so called) in the county of Cheshire, to Chester, in the county of Rockingham, by a committee of the general court, and by them reported with a plan, at the session of the general court in June last.

BE it enacted by the Senate and House of Representatives in General Court convened, That a road from Hale's

Hale's bridge (so called) in Walpole, in the county of Cheshire, to Chester, in the county of Rockingham, be, and hereby is established according to the following courses and distances, and a plan of the same in the files of the secretary of said State, to wit.

Beginning at said bridge in Walpole, thence running south ten and an half degrees, east one hundred and eighty rods; thence south twenty degrees, east one hundred rods; thence south fifty-five degrees, east eighty rods; thence north seventy-five degrees, east twenty-nine rods; thence south thirty-two degrees, east thirty-two rods to cold river bridge; thence south fifteen degrees, west sixty-three rods to Bellows's tavern; thence north eighty-six degrees, east fifty-two rods; thence north fifty-three degrees, east one hundred and twenty rods; thence north sixty degrees, east one hundred and ninety rods; thence north eighty-eight degrees, east one hundred and eighty-four rods to general Bellows's mills; thence south eighty-six degrees, east two hundred and twenty rods; thence north seventy degrees, east sixty rods; thence north thirty degrees, east twenty-four rods; thence north fifty-four degrees, east fifty-four rods; thence north forty-five degrees, east ninety-eight rods to mill brook; thence north seventy degrees, east forty-two rods to Alstead line; thence south seventy-eight degrees, east thirty-eight rods; thence south sixty-four degrees, east fifty-four rods; thence south forty degrees, east sixty-six rods; thence south sixty-eight degrees, east sixty-eight rods; thence south twenty degrees, east twenty-eight rods; thence south thirty-two degrees, east forty-four rods; thence south sixty-eight degrees, east four hundred and eighty rods; thence south forty-six degrees, east forty-eight rods; thence south twelve degrees, east, sixty-seven rods to Alstead meeting-house; thence north eighty-three degrees, east fifty-two rods; thence south eighty-three degrees, east thirty rods; thence south eighty degrees, east seventy rods to camp brook; thence north thirty-eight degrees, east ninety-six rods; thence north forty-six degrees, east one hundred and seventeen rods; thence south eighty-five degrees, east seventy rods; thence south sixty degrees, east thirty-three rods to Baxter's brook; thence south forty degrees,

grees, east ninety-four rods ; thence north sixty degrees, east one hundred and fifteen rods ; thence south seventy-eight degrees, east forty-eight rods ; thence south sixty-two degrees, east one hundred and twenty rods ; thence south eighty degrees, east three hundred and thirty-five rods ; thence east two hundred and four rods to the easterly line of Marlow, thence to continue on the same course, one hundred and eighty-four rods ; thence south eighty degrees, east sixty-eight rods ; thence south seventy degrees, east fifty-two rods ; thence east twenty rods ; thence south fifty-seven degrees, east thirty-eight rods ; thence south sixty degrees, east sixty-four rods ; thence south twenty degrees, east fifty-five rods ; thence south thirty-four degrees, east fifty rods ; thence south forty-four degrees, east forty-five rods ; thence south fifteen degrees, east thirty-six rods ; thence south forty-five degrees, east forty rods ; thence south eighty-nine degrees, east sixty-two rods ; thence east twenty-eight rods ; thence south sixty-five degrees, east one hundred and ninety-two rods to Ashuillet-river ; thence south sixty degrees, east sixty rods ; thence south twenty-four degrees, east ninety-four rods to Stoddard line ; thence south forty degrees, east sixty rods ; thence south eighty-four degrees, east forty-six rods ; thence south fifty degrees, east eighty-four rods ; thence south sixty-two degrees, east one hundred and eighty-four rods ; thence south eighty-four degrees, east twenty-six rods ; thence south seventy degrees, east one hundred and forty rods ; thence south sixty-two degrees, east seventy-four rods ; thence south fifty degrees, east sixty-eight rods ; thence south thirty-five degrees, east one hundred and two rods ; thence south twenty-seven degrees, east two hundred and forty-two rods to Esquire Towns ; thence south sixty-six degrees, east two hundred and forty rods to Stoddard meeting-house ; thence south eighty-four degrees, east three hundred and ninety-two rods to Major Wright's mills ; thence south forty-nine degrees, east ninety rods ; thence north eighty-six degrees, east sixteen rods ; thence south sixty-six degrees, east twenty-six rods ; thence north eighty-one and an half degrees, east twenty-one rods ; thence north fifty-six degrees, east fourteen rods ; thence north

eighty-

eighty-nine and an half degrees, east one hundred and thirty-three rods; thence south sixty degrees, east twenty-four rods; thence east eighteen rods; thence south fifty-three and an half degrees, east fifty rods; thence south forty-seven degrees, east twelve rods; thence south thirty-six and an half degrees, east sixteen rods; thence north eighty-five degrees, east eighty-five rods; thence east twenty rods; thence south seventy-six degrees, east seventy rods; thence south sixty-two degrees, east eighteen rods; thence south fifty-three degrees, east twenty-one rods; thence south sixty-three and an half degrees, east eighteen rods; thence north seventy-seven and a quarter degrees, east sixty-two rods; thence north thirty-seven degrees, east twenty-two and an half rods; thence north sixty-three degrees, east twelve and an half rods; thence north forty-nine degrees, east ten and an half rods; thence south fifty-three degrees, east seventeen rods, to where the west line of Antrim crosses the branch of Contucook river; thence south eighty-three degrees, east thirty-four rods; thence south forty-five degrees, east eleven rods; thence south twenty-two degrees, east fourteen rods; thence south fifty-four degrees, east sixteen rods; thence south thirty-five and an half degrees, east thirteen and an half rods; thence south thirty-nine degrees, east sixteen rods; thence south nineteen and an half degrees, east twenty-four rods; thence south fifty-five degrees, east twenty-seven rods; thence south forty-eight and an half degrees, east twenty-two rods; thence south thirty-six degrees, east twenty-eight rods; thence south sixty-seven degrees, east twenty-eight rods; thence south fifty-nine and an half degrees, east twenty-four and an half rods; thence south forty-six and an half degrees, east twenty rods; thence south thirty-one and an half degrees, east fifteen and an half rods; thence south twenty-two degrees, east seven and an half rods; thence south forty-four degrees, east twenty-four rods; thence south seventy-three degrees, east twenty-four and an half rods; thence north forty-nine degrees, east thirty-four rods; thence north seventy-three and an half degrees, east thirty-four rods; thence north seventy-two and a quarter degrees, east two hundred and twenty-four rods;

rods ; thence north eighty-six degrees, east one hundred and fifteen rods ; thence north seventy degrees, east fifty-four rods ; thence north eighty-five and an half degrees, east thirty-seven rods ; thence south seventy-one degrees, east fifty rods ; thence south sixty-three degrees, east thirty-nine rods ; thence south twenty-two and an half degrees, east thirty-six rods ; thence south thirty-two and an half degrees, east sixty-seven rods ; thence south twenty-two degrees, east fifty rods ; thence south seventeen degrees, east one hundred and seventeen rods ; thence south forty-two degrees, east six hundred and eighty-two rods ; thence south eighty-five degrees, east one hundred and fifteen rods ; thence south fifteen and an half degrees, east one hundred and twenty-one rods ; thence south one degree, east fifty eight rods ; thence south seventeen degrees, east thirty rods ; thence south sixty-six and an half degrees, east forty-seven rods ; thence north eighty-six and an half degrees, east seventy-four rods to Contucook river branch, being the east line of Antrim ; thence north fifty-eight and an half degrees, east one hundred and twenty rods ; thence south seventy-seven degrees, east one hundred rods ; thence north seventy-six degrees, east eighty-eight rods ; thence east two hundred and one rods ; thence north seventy-one degrees, east twenty-four rods ; thence south fifty-six degrees, east sixty-one rods ; thence south forty-four and an half degrees, east fifty-six and an half rods ; thence south thirteen degrees, east twenty-three rods ; thence south sixteen and an half degrees, east twenty-eight rods ; thence south seventy-one degrees, east one hundred and five rods ; thence south eighty-eight degrees, east seventy-six rods ; thence south forty degrees, east sixty rods ; thence south thirty-six degrees, east one hundred and eighty-nine rods ; thence south eleven and an half degrees, east forty-nine rods ; thence south thirty-two degrees, east forty-five rods to Lieutenant Mitchel's, as noted on the plan, thence south seventy-four degrees, east forty-one rods ; thence south sixty-four degrees, east one hundred and twenty rods ; thence south twenty-two and an half degrees, east one hundred and eighty rods ; thence south fifty-three and an half degrees, east one hundred and eighty-four rods ; thence south

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seventy-five degrees east, ninety-eight rods; thence south twenty-eight degrees east, forty-eight rods; thence south ten and a quarter degrees east, fifty rods; thence south twenty-five degrees east, thirty-two and an half rods; thence south forty-two degrees east, sixty rods; thence south fifty-four and a quarter degrees east, one hundred and sixty-five rods; thence south twenty-seven degrees east, thirty-two rods; thence south sixteen degrees east, twenty rods to Francetown meeting-house; thence south fifty-seven and three quarters degrees east, thirty-eight rods; thence south sixty-six degrees, east one hundred rods; thence north seventy-four and an half degrees east, thirty rods; thence south eighty-seven degrees east, twenty-seven rods; thence south fifty-eight and an half degrees east, thirty rods; thence south seventy-nine degrees east, eighty rods; thence north eighty-nine and a quarter degrees east, one hundred and thirty-two rods; thence north sixty-two degrees east, forty-one rods; thence north thirty-three degrees east, fifty-two rods; thence north sixty-nine degrees east, one hundred and seventy-five rods; thence north fifty-four and a quarter degrees east, one hundred and ninety-eight rods; thence north eighty-seven degrees east, sixty rods; thence north ten degrees east, twenty-seven rods; thence north twenty-five degrees east, sixty-four rods; thence north fifty-four degrees east, eighty-four rods; thence north forty-two degrees east, one hundred and sixty rods; thence south eighty-two degrees east, forty-two rods; thence north eighty and a quarter degrees east, one hundred and four rods; thence south forty-one degrees east, thirty-seven rods; thence south eighty-three degrees east, thirty-six rods; thence north eighty-three and a quarter degrees east, sixteen rods; thence south sixty-nine degrees east, forty-eight and an half rods; thence south fifty-nine and an half degrees east, fifty-nine rods; thence south sixty-six degrees east, eighty-eight rods; thence south sixty-three and one quarter degrees east, fifty-eight rods; thence south seventy-two and an half degrees east, one hundred and twenty rods; thence north eighty-seven degrees east, sixty-two rods; thence north sixty-nine degrees east, twenty-five rods; thence north seventy-eight degrees east, thirteen rods; thence north eighty-

ty-six and an half degrees east, fifty rods ; thence north sixty-two and a quarter degrees east, twenty-seven rods ; thence north sixty-eight degrees east, twenty-one rods ; thence north seventy-five and an half degrees east, one hundred and thirty-eight rods ; thence south eighty-three degrees east, one hundred and six rods ; thence north seventy-five degrees east, one hundred and thirty rods to Piscataquog branch ; thence north forty-eight and a quarter degrees east, forty rods ; thence north eighty-seven and an half degrees east, fifty-nine rods ; thence south seventy and an half degrees east, forty rods ; thence south forty-six degrees east, fifty-two rods ; thence south eighty-two degrees east, sixty-one and an half rods ; thence north forty-three and a quarter degrees east, thirty-seven rods ; thence south sixty-six degrees east, thirty-five rods ; thence north sixty-six degrees east, thirty-two rods ; thence south eighty-two degrees east, twelve rods ; thence north eighty-one and three quarters degrees east, thirty rods ; thence south fifty-three and three quarters degrees east, twenty-eight and an half rods ; thence south eighty degrees east, sixty-two rods ; thence north sixty one and a quarter degrees east, eighty-one rods ; thence north eighty-four and three quarters degrees east, twenty-nine rods ; thence north forty degrees east, one hundred and thirty-six rods to Piscataquog branch ; thence north fifty-two degrees east, thirty-four rods ; thence north eighty-two and an half degrees east, sixty-four rods ; thence south eighty-three degrees east, sixty-four rods ; thence south sixty-seven and three quarters degrees east, two hundred and forty-six rods ; thence south sixty-three degrees east, one hundred rods ; thence south seventy-five and a quarter degrees east, ninety-two rods ; thence south sixty-two and an half degrees east, thirty-two rods ; thence north eighty-six degrees east, seventy rods ; thence north eighty-five degrees east, thirty-nine and an half rods ; thence south seventy-two and an half degrees east, eighty-four rods ; thence south seventy-six and an half degrees east, one hundred and thirty-two and an half rods ; thence north seventy and an half degrees east, thirty-eight and an half rods ; thence north eighty-four degrees east, twenty

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fix rods; thence south forty-one and a quarter degrees east, thirty rods; thence south sixty-seven degrees east, seventy-one rods; thence south fifty-two degrees east, twenty-four rods; thence north sixty-eight degrees east, twenty-eight and an half rods; thence north seventy-three degrees east, twenty-five rods; thence north seventy-four degrees east, fifty rods; thence north seventy-eight degrees east, sixty-five rods; thence north eighty-four degrees east, one hundred and four rods; thence north fifty-nine degrees east, thirty-two rods; thence north seventy-six degrees east, twenty-four rods to Goffstown meeting-house; thence to continue on the same course thirty-eight and an half rods; thence south sixty-nine degrees east, one hundred and twenty-eight rods; thence north eighty-nine and an half degrees east, fifty-eight rods; thence north eighty-two degrees east, eighty rods; thence south fifty-six and an half degrees east, one hundred and sixty-eight rods; thence south thirty-four degrees east, sixty rods; thence south fifty-three and a quarter degrees east, sixty rods; thence south sixty-eight degrees east, thirty-eight rods; thence south eighty and an half degrees east, fifty-two rods; thence south seventy-one degrees east, thirty-six rods; thence south sixty degrees east, thirty-eight and an half rods; thence north eighty-two degrees east, seventy-seven rods; thence south fifty-seven and an half degrees east, forty-seven rods; thence south eleven and an half degrees east, twenty rods; thence south twenty-six degrees east, one hundred and four rods; thence south fifty-six degrees east, one hundred and seventy-four rods; thence south twenty-four and an half degrees east, one hundred and sixty-three rods; thence north eighty-five degrees east, eighty-four rods to Amoskeig bridge; thence to continue on the same course thirty-four and a quarter rods to the easterly end of said bridge; thence north seventy-one degrees east, eighty-three rods; thence south seventy-eight degrees east, two hundred and fifty-eight rods; thence south eighty-four degrees east, one hundred and twelve rods; thence north seventy-two degrees east, five hundred and twenty-four rods; thence south seventy-one and an half degrees east, one hundred and four rods; thence south fifty degrees east, one hundred and twenty-

twenty-six rods ; thence south fifteen degrees east, forty rods ; thence south thirty-five and an half degrees east, twenty-two rods to a pitch-pine tree standing on Deerneck in Chester, marked 60, the number of miles from Hale's bridge at Walpole ; the said road to be four rods wide, and the line above described to be considered as the centre thereof :—And the inhabitants of the several and respective towns, and proprietors of unincorporated lands through which the said road passes, shall make such part of said road with necessary bridges thereon, as is in each several town, passable and convenient for loaded teams, within one year from the passing of this act, and keep the same in repair in future, agreeable to the laws that now are, or may be made hereafter for the repairing of highways.

And be it further enacted by the authority aforesaid, That the inhabitants of the several and respective towns, and proprietors of unincorporated lands, through which said road passes, shall pay to the owners of the lands in their several towns, the following sums, as a compensation for the damage by them sustained, by the laying said road through their lands, to wit :

The inhabitants of Alstead shall pay to John Banks the sum of six pounds, and to Benjamin Baxter the sum of two pounds eight shillings.

The inhabitants of Stoddard shall pay to Nathaniel Emerson the sum of four pounds.—The inhabitants of Antrim shall pay to James Karr three pounds, to John Karr two pounds eight shillings, to Lemuel Page twelve pounds, to James Steel two pounds eight shillings, to Samuel Caldwell two pounds eight shillings, to William Boyd four pounds ten shillings, to John Duncan, Esq. three pounds.—And the inhabitants of Francestown shall pay to the owner of the farm, which was lately William Caldwell's six pounds, to John Gibson four pounds ten shillings, to Boyd Hopkins three pounds, to Lieutenant Thomas Mitchel one pound ten shillings, to David Sterret, Esq. four pounds ten shillings, and to Joseph Kegs nine pounds.—The inhabitants of New-Boston shall pay to James Cairns six pounds.—And the inhabitants of Goffstown shall pay to Captain Timothy Eaton four pounds ten shillings

to Timothy Sargent six pounds, to Alexander M'Coy ten pounds and to Col. Robert M'Gregore two pounds eight shillings.—And the inhabitants of Derryfield shall pay to Joseph Farmer twelve pounds, and to Ebenezer Stevens two pounds eight shillings—all within nine months from the passing this act.—And where the inhabitants of either of the towns aforesaid shall refuse or neglect to pay the several persons aforesaid, the sums aforesaid, to them respectively herein ordered to be paid, each and every of said persons, from whom payment is withholden, shall have right to apply to the court of general sessions of the peace, in and for the county in which the town lays, where such payment may be withholden, to compel payment of the same. And the several courts of general sessions of the peace, in each several county's where the towns aforesaid lay, are hereby authorized and required to give the same remedy to such applicants, as they are by law empowered to give persons injured by laying out roads through their lands, when the same is done pursuant to the orders of such courts, any law, usage or custom to the contrary notwithstanding.

Approved February 22, 1794.

AN ACT to incorporate a company by the name of the proprietors of the New-Hampshire turnpike road.

Approved
June 16,
1796.

Whereas a petition has been presented to the general-court, setting forth that the communication between the sea coast and the interior parts of the State, might be made much more easy, convenient and less expensive, by a direct road from Concord to Piscataqua bridge than it now is, between the country and any commercial sea port; that the expensiveness of an undertaking of this kind, however useful to the community, would burthen the towns through which it may pass so heavily as to render it difficult to effect so important a purpose, otherwise than by an incorporated company who might be indemnified by a toll for the sums that should be expended by them; therefore it was prayed by the petitioners that they and their associates might be incorporated into a body corporate

Preamble.

porate for the aforesaid purpose under such limitations, and with such tolls as might be thought fit, which prayer being reasonable.

Incorporation.

BE it enacted by the Senate and House of Representatives in General Court convened, That John Hale, Arthur Livermore, Isaac Waldron, John Goddard, Thomas Leavitt, William Hale & Peter Green & their associates & successors, be, & they are hereby incorporated & made a body corporate & politic forever, under the name of the proprietors of the New-Hampshire turnpike road, and by that name may sue and prosecute, and be sued and prosecuted to final judgment and execution, and shall be, and hereby are vested with all the powers and privileges which by law are incident to corporations of a similar nature.

Proprietors may make & establish rules, &c.

And be it further enacted, That the said John Hale Esq. shall call a meeting of said proprietors, by advertisement in the New-Hampshire Gazette, to be holden at any suitable time and place after fourteen days from the first publication of said advertisement, and the proprietors by a vote of a majority of those present or represented at said meeting, accounting and allowing one vote to each share in all cases, shall choose a clerk, who shall be sworn to the faithful discharge of said office, and shall also agree on a method of calling future meetings, and at the same time or any subsequent meetings, may elect such officers and make and establish such rules and by-laws as to them shall seem necessary or convenient, for the regulation and government of said corporation, for carrying into effect the purpose aforesaid, and for collecting the tolls herein after established; and the same by-laws may cause to be executed, and annex penalties to the breach thereof, provided the said rules and by-laws are not repugnant to the constitution and laws of this State; and all representations at any meeting of said corporation shall be proved by writing signed by the person to be represented, which shall be filed with the clerk, and this act and all rules, by-laws, regulations and proceedings of said corporation, shall be fairly and truly recorded by the clerk in a book or books provided and kept for that purpose.

May lay out a road.

And be it further enacted, That the said corporation are empowered to survey, lay out, make and keep in

repair,

repair, a turnpike road or highway of four rods wide, in such rout or track, as in the best of their judgment and skill, will combine shortness of distance with the most practicable ground, from Piscataqua bridge in Durham, to Merrimack river in Concord.

And be it further enacted, That in case the said proprietors and the owners of land through which the said road may run, shall not agree on the compensation to be made for said land, the court of common pleas of the county in which the land lies, upon application of the said proprietors or of the owners, may appoint a committee who shall ascertain the same in the same way as compensation is made to owners of land for highways as usually laid out, and execution on non-payment against the said proprietors shall issue of course.

Compensation.

And be it further enacted, That the said corporation may erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties herein after granted to the said company, from all persons travelling in the same with horses, cattle, carts and carriages.

May fix gates.

And be it further enacted, That it shall and may be lawful for said corporation to appoint such and so many toll gatherers as they shall think proper, to collect and receive of, and from all and every person and persons using the said road, the tolls and rates herein after mentioned, and to stop any person riding, leading, or driving any horses, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, coach, charriot, cart, waggon, sleigh, or other carriage of burthen or pleasure, from passing through the said gates or turnpikes until they shall respectively have paid the same, that is to say, for every mile of the said road, and so in proportion for any greater or less distance, or greater or smaller number of sheep, hogs or cattle, viz. for every ten sheep or hogs, one cent; for every ten cattle, two cents; for every horse and his rider or led horse, one cent; for every sulkey, chair or chaise with one horse and two wheels, one cent and an half; for every chariot, coach, stage, waggon, phaeton or chaise with two horses and four wheels, three cents; for either of the carriages last mentioned with four horses, four cents; for every other carriage of pleasure the like sums according

May appoint toll-gatherers.

Toll.

according to the number of wheels and horses drawing the same; for each cart or other carriage of burthen drawn by one beast, one cent; for each waggon, cart or other carriage of burthen by two beasts, one and half cent; if by more than two, one cent for each additional yoke of oxen or horse; for each sleigh drawn by one horse, one cent and an half; by two horses, two cents, and if by more than two, one cent for each horse; for each sled drawn by one horse, one cent; for each sled drawn by two horses or a yoke of oxen, one cent and a quarter, and if by more than two horses or one yoke of oxen, one cent for each pair of horses or yoke of oxen; and at all times when the toll gatherer shall not attend his duty, the gate or gates shall be left open.

May hold
lands, &c.

And be it further enacted, That the said proprietors are hereby empowered to purchase and hold in fee simple, one thousand acres of land, and that the share or shares of any of said proprietors may be transferred by deed duly executed, acknowledged and recorded by the clerk of said proprietors on their records; and the share or shares of any proprietor may be sold by said corporation, on non-payment of assessments duly made.

When toll
may be taken.

And be it further enacted, That no toll shall be taken by said corporation for any mile of said road, until six hundred dollars shall have been expended thereon, or a proportionate sum upon the whole number of miles, reckoning from Piscataqua bridge to the place where any toll gate may be erected.

May be fined for defect of repairs.

And be it further enacted, That said corporation may be indicted for defect of repairs of said road, after the toll gates are erected, and fined as towns are by law fineable for suffering roads to be out of repair; and said fine may be levied on the profits and tolls arising or accruing to said proprietors.

Account to be laid before S. C.

Provided nevertheless, & be it further enacted, That if the said turnpike road shall in any part be the same with any highway now used, no toll shall be taken for passing the said part, nor shall the said proprietors be obliged to make or repair the same.

And be it further enacted, That at the end of every twenty years, an account of the expenditures upon said road, and the profits arising therefrom, shall be laid

laid before the judges of the superior court for the time being, under forfeiture of the privilege of this act in future; and if the net profits for the said twenty years, shall exceed twelve per cent per annum, the said court may reduce the future toll, so far as that it may not exceed twelve per cent, and if the profits shall not amount to six per cent the said court may raise the toll, so that it shall not be less than six nor exceed twelve per cent.

And be it farther enacted, That if in ten years the said road is not completed according to the provision in this act, every part and clause thereof shall be null and void.

In case null and void.

Provided also, That the State of New-Hampshire may, at any time after the expiration of forty years from the passing of this act, repay the proprietors of the said road, the amount of the sum expended by them thereon, with twelve per cent per annum, in addition thereto, deducting the amount of toll actually received by the proprietors and in that case the said road shall, to all intents and purposes, be a public highway, any thing in this act to the contrary notwithstanding.

State may repay, &c.

Approved June 16, 1796.

AN ACT to establish post guides, and to facilitate travelling in and through this State.

Passed Dec. 17, 1792.

BE it enacted by the Senate and House of Representatives in General Court convened, That for the accommodation of the citizens of this State, as well as for other persons who may have occasion to travel in and through the same, there shall be erected at the intersection of all public roads and highways within each town, parish, and precinct throughout this State, a monument or post guide at least ten feet high, which shall consist of materials of such angular form as shall correspond with the angle made by the intersection of the roads as aforesaid: And on each post guide to be erected as aforesaid, or on the appendages thereof, shall be engraved or painted in legible characters, the name of the next adjoining town and towns, to which such roads

Monuments to be erected.

R R

respectively

respectively lead : As also the names of such other towns as may be thought proper, with the estimated number of miles to all such towns respectively, in figures. And an hand and finger shall be painted on the left of such letters as direct to a right hand road, and on the right of such letters as direct to a left hand road, and the number of miles so to be engraved or painted, shall be understood to be the distance to the most public place of resort within the town against which such figures shall be made.

And be it further enacted, That the selectmen of the respective towns and places to which they respectively belong, shall superintend the erecting and keeping in repair, all such post guides at the expence of the towns respectively. — Provided that the inhabitants of the towns, parishes and precincts respectively, duly qualified to vote in town affairs, may if they choose on or before the first day of June next, and annually afterwards, determine of what materials the said post guides shall consist, and appoint suitable persons to superintend the erecting and repairing the same.

Penalty for neglect of duty,

And be it further enacted, That if the selectmen, or other persons who may be appointed to superintend the erecting and repairing of post guides as aforesaid, shall neglect their duty as herein prescribed for the space of twelve months from and after the first day June next, or for the space of any four months after the expiration of said twelve months, they shall for every such neglect, pay a fine of twenty shillings.

And for defacing.

And be it further enacted, That if any person shall throw down, demolish or deface any such post guide, appendages, letters or figures thereon engraved or painted, or be aiding and assisting in such offence, he shall pay a fine of thirty shillings.

Fines, how to be recovered and appropriated.

And all fines which may be forfeited in consequence of this act, may be sued for, and recovered by action, bill, plaint or information in any court proper to try the same. And all fines shall be appropriated, the one half to the use of the prosecutor or informer, and the other half to the use of the town where the offence may be committed.

This act passed December 17, 1792.

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AN ACT relative to common fields, and regulating fences. Passed Feb. 8, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That where several owners of lands shall improve their lands in one common field, they may meet and agree on such mode of fencing and securing the same as to them may seem best. And any justice of the peace on the application of any two or more of such owners or proprietors may call a meeting of such owners and proprietors, and when met, they, or the major part of them may in any way they may think just and equitable, set out and apportion, or cause to be set out and apportioned, each owner's part of the fence to be built and maintained, and each owner shall make and maintain such part of the fence as may be allotted to him, as long as he continues to improve his part in such common field; and such owners at any legal meeting warned and holden for that purpose, may raise such sums of money, as they may judge necessary for defraying the charges of making a division of the fence as aforesaid, or of fencing such part of such common field as they may think best to fence and maintain in common; and they and the officers by them chosen, shall have all the powers incident to assessing, levying and collecting any such sums of money.

Common fields how fenced.

And be it further enacted, That when any damage is done in such common field, through insufficiency of the fence, the person, whose duty it was to make the fence which proves insufficient, shall be liable to make good all such damage to the person injured, by special action of the case.

Owner of defective fence to make good the damages.

And be it further enacted, That each proprietor of lands lying in one common field, and the owners of any lands where there is not a division fence between them, shall once in five years on six days notice previously given, run the lines and make and keep up the boundaries between them, on penalty of forfeiting ten shillings for each neglect, to be recovered by any person who will sue therefor.

Owners of common lands to run their lines.

And be it further enacted, That the inhabitants of every town and place in this State, at their annual meeting for the choice of town officers, shall choose fence viewers, who shall be freeholders, and who shall

Fence viewers.

be

be sworn to the faithful discharge of the duties of said office.

Their duty.

And it shall be the duty of all fence viewers, on request, to view all fences in the same town or place for which they are chosen, and to establish division fences between persons interested in making them, and to appraise damage done in certain cases, and generally to do all the duties in this act, and by law enjoined upon them. And every fence by them or the major part of them adjudged good and sufficient, shall be considered as legal and sufficient to all intents and purposes,

Partition fences.

And be it further enacted, That the owners or occupants of lands under improvement, and adjoining, shall contribute equally in building and repairing the partition fence between them, so long as they shall continue to improve.

And where no division of such partition fence hath been made, and the persons whose duty it is to make and maintain such fence, cannot agree on a division of the same, the fence viewers of the town where the lands lie, and in case the lands be in different towns, then the fence viewers of both such towns or places not interested, or the major part of them, or so many of them as the parties shall agree upon, shall notify both parties and shall repair to the place where such fence is to be built or repaired, and whether the said parties attend or not, they having been duly notified to attend, and no sufficient excuse being made for their non-attendance, shall proceed to make division of such fence, and shall set the same down in writing, and charge half their fees to each party, and shall deliver or leave with each party a copy of such writing, signed by them, with a minute of their fees charged to each party as aforesaid; and such division, and division made in writing by agreement of the parties, shall be binding upon such parties, and the succeeding occupiers of such lands, and they shall forever after be obliged to maintain the part allotted and assigned as aforesaid, unless a new agreement should afterwards otherwise establish a division. And in all cases where division shall be made as aforesaid, or where division shall have been made by agreement of the parties, if either party shall neglect to build

and

and make a sufficient fence on his part, or shall neglect to keep the same in good repair from time to time, the party aggrieved thereby, may apply to the fence viewers, who shall repair to the place, and if they are of opinion that the fence, if there be any, is insufficient, or if there be none, that there hath been a division either in manner aforesaid, or by agreement of parties as aforesaid, they shall notify in writing the delinquent party to build or repair his part of the fence within the term of six days, or within such term, which shall never be less than six days, as they considering the season of the year, and the labor to be done, may think just and reasonable. And where division shall be made by fence viewers, they may do this at the time of their making such division; and if the party shall neglect to build or repair that part of the fence which belongs to him to build or repair, within the time so ordered and allowed by the fence viewers as aforesaid, then the party aggrieved thereby and injured by such neglect, his own part of the fence being in good repair, and so adjudged by the fence viewers, may build or repair the part of him so neglecting, and the said fence viewers, if they adjudge the part so built or repaired sufficient, shall estimate and appraise the same, and thereto add their own fees, and shall express and set down such their appraisement and the amount of their fees in writing, and shall sign the same, and the person so building or repairing, shall have a right to demand and receive double the said amount of the occupant, lessor or freeholder of the land where the said fence was deficient, at his election, together with costs of suit.

Provided always, That previous to the commencement of any such suit, he shall demand the said double amount of the person against whom he shall make his election.

And be it further enacted, That when one of the owners of lands adjoining, shall have begun to improve before the other, and shall have built a fence on the divisional line between them, and afterwards the other shall improve and shall be advantaged thereby, the occupant, lessor or freeholder of such land last begun to be improved, shall pay for one half of the partition

Where one owner of common land improves in severalty before the other.

partition fence between them, according to the value of it at the time he shall begin to improve, such value to be ascertained (in case they cannot agree amongst themselves) by the fence viewers, on application of either party, the other being notified to attend at the time of making such appraisement, which shall be set down and expressed in writing, and be signed by the fence viewers making the same, and delivered by them to such of the said parties as will receive the same. And if such occupant, lessor or proprietor as aforesaid shall after notice as aforesaid, and demand made, for the space of thirty days neglect to pay for a moiety of such fence, the proprietor of such fence, or person who made the same, shall, and may recover double the sum so ascertained, by special action on the case against such occupant, lessor or freeholder notified and requested as aforesaid.

Owner of
land ceasing
to improve,
to sell his
part of the
fence.

And be it further enacted, That where one party shall cease to improve his land, or shall lay his enclosure before under improvement, in common, he shall not have a right to take away his part of the fence, but shall have a right to the value of his part from the owner, occupant or lessor of the lands adjoining, he continuing to improve, and if they cannot agree on the value of such fence at the time of his so ceasing to improve, the same shall be determined and ascertained by the fence viewers in manner aforesaid, and on neglect of payment after demand actually made, for the space of thirty days, the said party so ceasing to improve, shall recover the full value ascertained as aforesaid, of the occupant, lessor or freeholder, by action on the case with costs of suit.

Damages arising thro' deficiency of fence to be made good,

And be it further enacted, That when any damage shall happen to any owner or occupant of land, by reason of deficient fence which it was the duty of the owner or occupant of the land adjoining to build or maintain, then such person whose duty it was to build or maintain such fence, which hath proved to be so insufficient, shall be liable to make good all such damages, to be recovered by special action on the case.

except to the owner of such fence.

And be it further enacted, That where any damage shall be done to any person, whose fences are insufficient, and such damage shall happen through such deficiency of fence, by swine yoked and ringed according

ing

to law, horses fettered, and other creatures not prohibited from feeding on the highways or commons, the person sustaining such damage may nor compound the creatures so doing damage, nor shall he recover any damages therefor.

And be it further enacted, That if any fence viewer shall neglect to attend, and do any of the duties enjoined upon him by law, he shall forfeit and pay the sum of thirty shillings to any person who will sue for the same.

Penalty on fence viewers for neglect.

And be it further enacted, That each fence viewer shall be allowed four shillings per day for his services, and two shillings for any time less than a day, and in all cases except where the same is otherwise ordered and directed, the fees shall be paid by the parties interested, and in all cases where the party or parties whose duty it is to pay the fence viewers for their service, shall neglect to pay the same in the space of thirty days after the service done, they may recover double fees by action on the case, and each fence viewer may be a witness for or against another fence viewer, who was concerned with him in the same business or service.

Their fees.

And be it further enacted, That in all cases before-mentioned, where fence viewers shall make a division of fence, or shall estimate the value of any fence made or repaired, they shall make oath that in doing it, they have acted impartially, uprightly and according to their best skill and judgment, and the same being recorded with the justice's certificate thereon, in the book of records belonging to such town or place, by the clerk thereof, where the original is lost, an attested copy from such records shall be used instead thereof, and shall be of equal validity with the original.

Division of fences to be recorded.

This act passed February 8, 1791.

AN ACT regulating pounds.

Be it enacted by the Senate and House of Representatives in General Court convened, That there shall be made and maintained in every town in this state, in some convenient place, a good and sufficient pound

Passed Feb. 9, 1791.

Pounds to be built in every town.

pound, to be built and maintained at the expense of such town, for the impounding and restraining of all swine, cattle, sheep or other creatures liable to be impounded or restrained.

Penalty for neglect.

And if any town shall not be provided with such pound, within two years from the passing of this act they shall forfeit and pay to any person who will sue for the same, the sum of ten pounds, and the same sum for every year afterwards that they shall be destitute of such pound; and may on indictment be fined in a sum not exceeding five pounds in either of the cases aforesaid, to the use of the county in which such town lies.

And where any town or place shall not have such pound, any person desirous of impounding any creatures doing damage, or otherwise liable to be impounded, may impound them in his own barn or other enclosure, taking care immediately to notify the owner and all concerned of the place where, and the cause for which they are impounded.

Creatures damage feasant may be impounded.

And be it further enacted, That it shall and may be lawful for any person to impound any swine, cattle, horses, sheep or other creatures that shall be found damage feasant, or doing damage in his enclosure; swine found in the highway or on common land, in any town or place, unyoked or unringed as the law requires; any neat cattle, horses, sheep or other creatures going on any common land in any town or place, not allowed to feed there; the town, or major part of the proprietors of such common land, who may permit the same. And the fees to be paid to the pound keeper shall be the sum of six pence per head for every creature impounded, except sheep, for which the fees shall be one penny per head, including the putting in and letting out, and the fee to the person impounding shall be four pence per mile for travel, from the place, where the creatures impounded are found doing damage, or otherwise liable to be impounded, to the pound; and the sum of one penny per head for driving, if more than one mile, and otherwise one penny per head, and the sum so allowed for sustenance of the creatures impounded shall be for cattle and horses above one year old, six pence per day each, for cattle and horses under

age, and for all other creatures, two pence per day each.

And it shall be the duty of the pound keeper, where there is any such, otherwise the duty of the person impounding, to cause the creatures impounded to be relieved with meat and drink, suitable for such creatures, and upon neglect, such person shall be liable to an action by the owner of the cattle for all damage sustained thereby. And the person impounding any creatures, shall leave with the pound keeper, in writing, an estimate of the damage sustained, and done by the creatures impounded, and the amount of his fees and charges incurred. And if he shall know the owner of the creatures impounded, or the person who had them last in possession or keeping, he shall, within twenty-four hours from the time of impounding, cause to be delivered to the owner thereof, in person, or cause to be left at the last and usual place of the abode of such person, a notification in writing, which shall certify the owner of the damage done, describe the creatures that did it, the time when, and the place where the same was done, and the sum at which he estimates such damage, and the amount of such charges and fees, as have already accrued. And the person notifying shall be allowed one shilling and six pence therefor, and two pence per mile for travel from the pound to the place where such notification shall be given or left as aforesaid. And the owner or claimant of such creatures, if he will pay the damages done, and the charges incurred therein, to the person impounding, or to the pound keeper, the pound keeper or person impounding shall immediately release the creatures impounded. But if the owner of the creatures impounded shall refuse to pay the sum, at which the party conceived himself injured by such creatures, has estimated the same damage; then the person impounding may, and upon his neglect the owner may apply to some justice of the peace in the same, or in an adjoining town, who shall immediately notify the party to appear before him, at such time and place, as the said justice shall appoint, which to prevent expense to the parties litigant, shall be as soon as possible, and upon his attendance at the time, or in case he should refuse to attend,

Creatures
impounded
to be sup-
ported.

Person im-
pounding to
give notice to
the owner.

Justices to
appoint per-
sons to ap-
praise the
damage.

tend, in either case, the said justice shall nominate, and after hearing the objections of the parties present, shall appoint one or more person or persons indifferent, between the parties, not exceeding three, to appraise the damage done by such creatures; and the persons so appointed, shall repair to the place where the supposed trespass was committed, and having considered all the circumstances, and heard the pleas and allegations of the parties, and their witnesses produced, or such of the parties as may choose to attend; the man or men so appointed by the justice shall notify the parties of the time when he or they will attend the business, and when he or they have heard and considered the whole matter, he or they so appointed, or major part of them, if more than two, shall make return in writing, to the justice, either that the party has sustained damage, and how much, or that such party hath sustained no damage, and the report shall be final and conclusive between the parties, as to the trespass for which the said creatures were impounded, and upon paying the sum so assessed and reported, and the charges incurred, including the fees of the justice and the person or persons who appraised the damages, to be assessed by the justice, or upon tender of the same, shall be entitled to have his creatures impounded, released from the pound. And in all cases the owner of the creatures impounded may, at any time while the creatures remain in the pound, replevie the same, if he see cause, giving sufficient bond with good sureties, in a sum equal to double the value of the creatures impounded, to prosecute his replevin before a justice of the peace, if the value of the creatures impounded exceed not the sum of forty shillings, within fifteen days, otherwise at the next court of common pleas, to be holden in the same county, and to pay all such damages, costs and charges as may be awarded against him.

Owner may
replevie.

Mode of
proceeding
where the
owner is not
known,

And be it further enacted, That where the owner of any creatures lawfully impounded, shall not be known, the person impounding shall immediately, or at least within twenty-four hours after the impounding of such creatures, put up a notification at some public place in the town where the said creatures are impounded, and in two adjoining towns, containing the

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the same as before required to be left with the owners of any creatures impounded, where known ; and if after the space of four days from the time of impounding no owner appears, the person impounding may upon paying the pound keeper his charges for impounding and for keeping the creatures impounded, take the creatures impounded out of the pound, and proceed with them as strays.

But if the owner though at first unknown appear, or if the owner be known and notified as aforesaid, and doth not appear, or appearing doth not replevie his creatures impounded, in every such case at the end of four days from the time of the owner's appearing in the first case, or at the end of four days from the time of his being notified as aforesaid, in the latter case, the creatures not being replevied, but still remaining in pound, and the owner in either case not having paid or tendered to the person impounding, or the pound keeper, the amount of damages assessed as aforesaid, and all lawful charges as aforesaid, the person impounding shall, if it is not done already, apply to a justice to have the damages assessed, to be conducted and managed as before is directed ; and the justice shall order the creatures impounded, or so many of them as may be sufficient to satisfy the damages and costs, as he may think most advantageous to the owner, to be sold at public auction, giving the same notice as sheriffs are obliged by law to give, when they shall sell any chattels to satisfy any execution, or he may order them to be appraised, in which case the person impounding them shall take them to his own use at the appraised value, and in either case, after the damages and all charges are deducted, he shall pay the overplus, if there be any, to the owner when he appears to receive it, and in case they are not all appraised or sold at auction, the person impounding shall keep such creatures as remain, one year for the owner, who at any time within the year may have them, paying the person keeping them, having respect to the risque such person runs of losing the keeping by such creatures dying, a reasonable sum for keeping ; and if the owner doth not appear to demand or take them and pay the keeping as aforesaid, then at the expiration of the said

or will not
replevie.

said year, they shall be the property of the said person impounding them. And in all cases the damages to be estimated to the party impounding, shall only be that which hath been done by such creatures the last time of their being in the enclosure of the person impounding, and not any damage the same creatures may have done at any time previous thereto.

Penalty for
rescuing.

And be it further enacted, That if any person shall rescue any swine, neat cattle, horses, sheep or other creatures, from the possession of any person driving, or being about to drive them to pound, the person so offending, shall for every such offence be liable to pay a fine of forty shillings, besides damage, to the person injured thereby.

Pound
breach.

And if any person shall make any pound breach, or in any way directly or indirectly, convey or deliver any creatures out of any pound, without lawful authority so to do, he shall for every such offence forfeit and pay the sum of five pounds, on indictment to be found by the grand jury, and shall also be liable to an action by the person impounding, to recover all such damages as he shall have sustained by reason thereof.

And if any person convicted of either of said offences, shall be unable to pay said fine and costs, the court before whom the conviction may be, may punish such person by imprisonment, not exceeding sixty days, or by whipping, not exceeding thirty stripes, at the discretion of the court before whom the conviction may be.

This act passed February 9, 1791.

Approved
Jan. 14,
1795.

AN ACT to prevent damage being done by horses, mules and jacks.

Horses, &c.
to be fettered.

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the first day of March until the last day of November, in each year, no horse, horse kind, mule or jack, more than six months old, shall be suffered to go at large on any highway or common, in any town in this State, unless such horse, horse kind, mule or jack shall be fettered with good and sufficient fetters, on penalty

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penalty that the owner or owners thereof, or person having the care of such horse, horse kind, mule or jack, forfeit and pay one dollar for each offence; to be recovered by action of debt, before any justice of the peace, by any person who shall sue for the same with costs of prosecution; unless it shall appear that such horse, or horse kind was going at large without the knowledge or negligence of the owner, or person having the care thereof as aforesaid.

Penalty.

How to be recovered.

And be it further enacted, That from and after the last day of November until the last day of March, in each year, any horse, horse kind, mule or jack, going at large, with or without fetters, in any highway or common, as aforesaid, the owner or owners, or persons having care thereof, shall be liable to the forfeiture of one dollar, to be recovered by any person who will sue for the same, in manner aforesaid.

And be it further enacted, That any person sustaining any damage in the public highway or common, by any horse or horse kind going at large, with or without fetters, shall recover of the owner or owners, treble the amount of damage, with costs of prosecution, by action in any court competent to try the same:

Treble damages to be recovered.

Provided nevertheless, That nothing in this act shall be construed to tolerate any horse, horse kind, mule or jack going at large, that is known to be unruly, by pushing down bars, or any kind of fence, and the same hath been made known to his owner; in every such case the owner or owners thereof shall be liable to the penalty of one dollar, to be recovered as aforesaid; said horse, horse kind, mule or jack being fettered notwithstanding.

Proviso.

No unruly horse allowed to go on the highway.

Approved January 14, 1795.

AN ACT to regulate ferries.

Passed Feb. 28, 1783.

WHEREAS the demands of ferrymen within this State, for carrying the subjects thereof, and others, their horses, cattle and carriages, across the rivers in the same State, are exorbitant and arbitrary, and many of said ferrymen neglect giving due attendance on passengers: Also the boats of some are out of repair:

Preamble.

For

For remedy whereof:

Sessions to
regulate the
rates of fer-
riage.

BE it enacted by the Council and House of Representatives in General-Assembly convened, and by the authority of the same, That the justices of the courts of general sessions of the peace in every county, having therein a ferry or ferries, throughout this State, may, and they are hereby required, in their court of sessions, to estimate and ascertain the rates of ferriage in all its branches, for each particular ferry in such county, which being done, the same shall be entered in the clerk's book in every such county, and the said justices are further required to cause a copy of such order of court touching said rates, to be served on every ferryman in each such county (at the charge of the same) who shall affix such list of rates in some conspicuous place in his house, where every passenger may have access there to. And every ferryman shall be governed by such order of court, and take no more for any particular service than the sum therein mentioned.

Ferryman
taking more
than the rate
specified to
pay damages

And be it further enacted, That if any ferryman shall demand and receive for any service before mentioned, a greater sum of money than in the before mentioned order of court specified, and if any suit shall be commenced by any person aggrieved, for the overplus, before any justice of the peace in the county where the offence shall arise, and judgment be rendered for the plaintiff, such justice shall give judgment against the defendant for damages and cost of suit.

Ferryman to
keep good
boats.

And be it further enacted, That every ferryman within this State, shall keep a good boat or boats, in good repair, suitable to the waters they are to ferry over, and also shall give ready and due attendance on passengers, upon all occasions, on penalty of twenty shillings for every default in attendance, and for want of such sufficient boat or boats as aforesaid, to forfeit and pay the sum of forty shillings, one half to the county wherein the offence shall arise, and the other half to him or them who shall inform or sue for the same, to be recovered either in a summary way before a justice of the peace, in each respective county or at a court of general sessions.

This act passed February 28, 1783.

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AN ACT relative to strays, and lost goods.

Passed Feb.

9. 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That the person finding any money, or goods, or finding and taking up any stray beast, whereof the owner is not known, shall within six days from the time of finding or taking up as aforesaid, give notice thereof in writing unto the clerk of the town or place in which such money, goods or beast were so found or taken up, and shall in such notification particularly describe the goods or beasts so found or taken up, and shall mention therein the amount of the money found; and the said clerk shall enter the same in a book to be kept by him for that purpose; and the said person finding, shall also within the said term of six days, put up a like notification in some public place in said town or place; and the said clerk shall at three public meetings of such town or place, immediately succeeding, read the same notification given to him as aforesaid publicly in the same meeting; and if the money so found, or the value of the goods or beasts so found and taken up, exceed twenty shillings, the said person finding or taking up shall also within the time before mentioned, put up a like notification in some public place in each of two at least of the adjoining towns or places, and the person so finding or taking up any stray beast, shall also within the said term of six days put a withe about the neck of such stray beast, and if no owner appeareth within one month from the time of notifying, then the person finding shall apply to a justice of the peace, who shall appoint one or more persons, not exceeding three, to appraise the property so found, if such property be other than money. And the said appraiser or appraisers shall be sworn by the said justice to the faithful discharge of that duty, and shall make return of such appraisement to the said justice; and if the owner of any money, goods or stray beasts, do not appear within one year from the time of the notification being entered with the town clerk as aforesaid; then the charges incurred by the person finding, the justice's, clerk's and appraiser's fees, and the keeping previous to the appraisal being adjusted and allowed by the said justice, and being deducted from the amount

Person finding to give notice thereof to the town clerk,

who shall record,

and publish the same.

Property found to be appraised,

how disposed
of.

mount of the money found, or from the appraised value of the goods or stray beasts so found, the person so finding shall pay a sum equal to the residue to the treasurer or selectmen of the town or place where such money, goods or stray beast was found, to be for the use of such town or place, and the person finding shall keep the money, goods or beast so found to his own use; but if the owner appeareth at any time after notice given to the clerk as aforesaid, and shall tender to the person finding a reasonable sum for the keeping, charges and fees incurred, to be adjusted by the justice, who appointed the appraisers, and in case none were appointed, then by any justice of the peace to whom the person finding may immediately apply, or if he doth not immediately apply, then to be adjusted by any justice of the peace to whom the owner may apply, in such case the owner shall be entitled to his property again.

Penalty on
person find-
ing and neg-
lecting to
comply with
the above
directions.

And be it further enacted, That if any person finding any money or goods as aforesaid, or taking up any stray beast as aforesaid, shall neglect to notify in manner aforesaid, within the time before prescribed, or shall neglect to put on the withe before required to be put on, and to keep on the same constantly, or shall neglect to apply to a justice of the peace for appraisement as aforesaid, such person neglecting, shall not be entitled to receive any thing for his trouble or charges in keeping or advertising or other proceedings with such money, goods or strays; and shall further forfeit and pay to any person who will sue for the same, the sum of ten pounds for every such neglect or default. ✕

Stray beast
dying, owner
to pay.

And be it further enacted, That if the stray beast found and proceeded with according to law, should happen to die, not through carelessness or negligence of the person finding and keeping, then the person finding, if ever he should discover the owner of such stray beast, shall be entitled to recover against him all such reasonable costs and charges as he may have been at before the death of such creature.

Penalty on
clerk for
neglect.

And be it further enacted, That if any clerk shall omit to do the duty enjoined upon him by this act he shall forfeit and pay to any person who will sue for

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And if any person shall take down any notification set up as aforesaid, until the expiration of one year from the time of setting up the same, or until the purpose for which such notification was set shall have been fully answered, or if any person shall take off the withe to be put on stray beasts aforesaid, during the time in which the same ought to remain on such stray beast, every person so offending in either of the cases aforesaid, shall forfeit and pay to any person who will sue for the same, to his use, the sum of two pounds.

Penalty for taking down notifications or taking off withes.

And be it further enacted, That no person shall from the first day of April, to the first day of November, yearly, take up any horse or other beast for a stray, or proceed with them as such within said term, though the owner be not known, unless such beast be taken damage feasant, or doing damage in some enclosure.

No stray beast to be taken up from April to November.

And be it further enacted, That the fees for notifying the clerk, shall be one shilling and six pence, and one shilling and six pence for every advertisement posted up, and if in an adjacent town it shall be two shillings and six pence, and the clerk's fees shall be one shilling and six pence for receiving and recording the notification, and six pence for each time of reading and notifying at a public meeting; and the justice shall be allowed for appointing appraisers one shilling and six pence, for receiving the appraisal one shilling and six pence, for recording the same and adjusting the charges three shillings, and the person keeping any stray beast, shall be paid for putting on the withe, and keeping the same on, if less than six months, one shilling and six pence, if more, three shillings, and for keeping, the customary price.

Fees.

This act passed February 9, 1791.

AN ACT for the punishment of idle and disorderly persons, for the support and maintenance of the poor, and for designating the duties and defining the powers of overseers of the poor.

Passed Feb. 15, 1791.

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Towns may
provide
houses of
correction.

BE it enacted by the Senate and House of Representatives in General Court convened, That the inhabitants of any town in this State, may build, or use any house such town may provide for an house of correction, or for a workhouse, in which to set their poor to work ; and at any legal meeting may raise all such sums of money as they may judge necessary for the purpose of procuring, building, or maintaining such house, or houses, and such house or houses shall and may be used for the keeping, correcting and setting to work of rogues, vagabonds, common beggars, lewd, idle and disorderly persons. And such town at any legal meeting may appoint all proper officers for the government of such house or houses, and shall, and may make and establish all necessary rules, orders, and regulations, not repugnant to the laws of this State, for the ruling, governing and punishing of such persons as may be there committed ; and such rules, orders and regulations by them so made, shall be put in execution, provided that in no case shall the punishment inflicted by such orders, rules and regulations, exceed hard labor during confinement in such house, wearing fetters or shackles during such time, or whipping to the number of twenty stripes.

Sessions may
provide
houses of
correction.

And be it further enacted, That the court of general sessions of the peace in each county in this State, may if they think best, build or otherwise provide at the charge of such county, a convenient house of correction, with convenient accommodations thereunto adjoining and belonging, to be used for the keeping and correcting of rogues, vagabonds, common beggars, lewd, idle and disorderly persons, and in which to employ the poor, and when there shall be no such house provided by the county, the common prison may be used for that purpose ; and the said court may nominate and appoint a master of such house, and all other proper officers for the government thereof, and may make, ordain and establish such rules, orders and regulations as may be necessary for the government thereof, provided the same be not repugnant to the laws of this State, and provided that no punishment to be inflicted by any of such regulations exceed hard labor, or wearing fetters or shackles during confinement in such house, or whipping to the number of thirty-nine stripes. And

And any justice of the peace, as well as the court of general sessions of the peace, may commit unto the county house of correction, to be kept and governed according to the rules and orders of such house, any rogue, vagabond, lewd, idle or disorderly persons, persons going about begging, or persons using any subtle craft, juggling or unlawful games, or plays, or persons pretending to have knowledge in physiognomy or palmistry, or persons pretending that they can tell destinies or fortunes, or discover by any spells, or magic art, where lost or stolen goods may be found, common pipers, fiddlers, runaways, stubborn servants or children, common drunkards, common night walkers, pilferers, persons wanton and lascivious in speech, conduct or behavior, common railers or brawlers, such as neglect their calling or employment, mispend what they earn, and such as do not provide for themselves or the support of their families, upon conviction of any of the offences or disorders aforesaid, on complaint made in writing, or such persons may be committed unto the house of correction in any town where such offender may be apprehended, if there be any such house of correction in such town.

Justices may
commit to
the house of
correction.

And be it further enacted, That when any person in any town or place in this State, shall be poor and unable to maintain him or herself, such persons shall be relieved and maintained by the overseers of the poor of such town or place where such person shall happen to be; and in case such town or place are not by law chargeable with the maintenance of such poor person, they may in the method herein after prescribed, or by action, recover of the town or person chargeable by law with the maintenance of such poor person, all such sums as they shall have expended about the maintenance of such person, and in case they shall have notified the town or persons liable by law to maintain such poor person, previous to their administering such relief, they shall have double costs of suit taxed for them, and such overseers may keep such poor persons in the workhouse, or may maintain them in any other way, they or the town shall judge best.

Paupers to
be main-
tained.

And be it further enacted, That when any person
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not an inhabitant of any town or place in this State, nor by the laws thereof the proper charge of any town or place in the same, or if any person or persons shall stand in need of relief in any town or place in this State, the selectmen or overseers of the poor of such town or place last mentioned, shall relieve and maintain such person and shall lay the account thereof before the justices of the court of general sessions of the peace for the county in which such town or place lies : and the said justices having examined such accounts, and adjusted the same, shall certify such sum (as they shall think proper to allow) to the President for the time being, who is hereby authorized with advice of council, to draw an order for the payment of the same out of the public treasury.

Provided always, That it shall be the duty of the said overseers in the cases aforesaid, to use all lawful means to obtain an allowance from such town or persons as may be liable by law to pay for the support of any such poor persons, previous to their application to the sessions in the manner before described.

And be it further enacted, That the overseers of the poor in every town or place in this State, be, and hereby are empowered to bind out to labor, or to employ in their workhouse (if they have any) every person residing in their town or place, of what age soever, who live idly, and pursue no lawful calling or business, and who are poor and stand in need of the relief of such town or place, or whose families standing in need of such relief are supported by such town or place ; and every contract made by such overseers in any of the cases aforesaid, shall be as good and effectual as if such person bound him or herself for the same term of time, and such overseers shall, and may take the wages and appropriate it to the maintenance of such person, his or her family or children provided always, that such contracts shall be made in writing, and shall express the term such person is to serve, which shall not exceed one year at a time, but may be renewed or made for a shorter time, as the case may be occasion.

And be it further enacted, That the overseers of the poor in the respective towns and places in this State, be, and hereby are empowered to set to work

in

in their workhouse, or elsewhere, or bind out apprentices, as they may think best, all such children as are chargeable to such town, who do not employ themselves in some lawful business, and whose parents are unable to maintain them, and do not bind them out in good families; the males may be bound out 'till they arrive at the age of twenty-one years, and the females 'till they arrive at the age of eighteen years; and such binding out shall be as good and effectual in law, to all intents and purposes, as any way and method of binding out apprentices whatever; and the said overseers shall make their contract equitably, and for the benefit of the persons bound out, as much as may be, at least that the males be instructed to read and write, and the females to read and do such work and business as may be suitable to their circumstances and condition, as far as such children may respectively be capable.

And the said overseers shall inquire into the usage of all persons by them or their predecessors bound out, and shall endeavor to redress any wrongs and injuries they may sustain.

And the persons to whom such persons are bound out, shall have the same authority over them, as masters of apprentices have by law over their apprentices, during their apprenticeship.

And be it further enacted, That the relations of any poor person standing in need of relief, in the line of father or grand father, mother or grand mother, children or grand children, of sufficient ability, shall be liable to maintain and relieve them when standing in need of relief; and in case any one standing in need of relief, have no such relations of sufficient ability, then, and in every such case, the town or place in this State where any such person was born, or last an inhabitant, shall be considered as the town or place liable to relieve and maintain such person, when standing in need of relief.

And every person who hath lived one year in any town or place, shall be deemed an inhabitant of such town or place, unless some time within such year, and before the expiration thereof, such person shall have been by warrant from the selectmen of such town or place directed to any constable thereof (or other

Overseers may set to work or bind out poor children.

Persons of ability to relieve their poor relations.

Persons to be deemed inhabitants after one years residence unless warned to depart.

other person to whom they may think proper to direct the same) warned to depart from such town or place, and the said warrant and the return of such warning made by the person to whom directed, within the time aforesaid, returned to the clerk of the court of general sessions of the peace in the same county, and put on file, which shall always be done by the said clerk, and a minute thereon made of the time of receiving the same. And the said clerk shall receive six pence therefor. *Provided always*, That nothing in this section contained, shall be construed to extend to persons committed, or lawfully restrained in any town, or to such as shall be sent for education, or to any physician to be healed or cured.

Warning not affected by taxing the property of the person warned.

And be it further enacted, That the taxing or assessing of any tenant or other person (so warned to depart from any town) for such lands, property and rateable estate as he may have, use, occupy or possess during his residence in such town, shall not be considered or construed, as entitling the person so taxed or assessed, to the rights and privileges of an inhabitant; nor shall such taxing or assessing be used, or in any wise operate, to injure or lessen the full force, validity and effect of such warning; such taxes or assessments, being always considered as made in common with the taxes and assessments upon the other lands, property and rateable estate in the respective towns; any law, usage or custom to the contrary notwithstanding.

Penalty for entertaining persons not inhabitants, eight months without giving notice.

And be it further enacted, That if any person in any town or place in this State, shall receive and entertain in his house, or suffer to live on his lands, lying in the same town or place where such person lives, any person or persons, who are not inhabitants of such town or place, for the space of eight months, and shall not in writing notify the selectmen, or some one of them thereof, and in such writing shall be expressed the names of such persons, the time when they came to his house, or to live on his land as aforesaid, and the place they came from (if known) every person neglecting to give such notice as aforesaid, shall forfeit, and be liable to pay a fine of ten shillings, for each and every such neglect, to be recovered with costs by the selectmen, for the use of the town

town where such neglect may happen ; provided they shall sue for the same within six months from the time any such penalty may be incurred.

And be it further enacted, That the master of every ship or other vessel, shall within three days, from and after the time of entering his ship or vessel, deliver to the selectmen or town clerk of the town where any such ship or vessel shall arrive, a true and perfect list, or certificate under his hand, of the christian and surnames of all persons, passengers or others, brought in such ship or vessel, not belonging thereto, and not heretofore inhabitants of this State, with a particular account of their several circumstances, so far as he shall know them, on penalty of forfeiting to the use of the town, in which such vessel arrives, the sum of two pounds for each person ; to be recovered by action by the selectmen, overseers of the poor, or town treasurer. And when any person so brought by any such master of vessel, shall be sick or lame, and likely to be chargeable, such master shall carry him or her out of this State again, within two months after request made, or give bond in a reasonable sum with sufficient sureties, that said person shall not become chargeable to said town, and shall be liable to pay all charges of supporting any such person.

And be it further enacted, That all disputes, which may arise in any county in this State, concerning the support and maintenance of any poor person, may be heard and determined by three justices of the peace, one of whom shall be of the quorum in such county.

And the said justices on a petition being presented to them, shall order the adverse party to be served with a copy thereof, with their order thereon, appointing a proper day and place of hearing thereon, giving at least eight days notice. And the said justices, on hearing both parties, or such of them as attend (due notice having been given) shall make such order thereon as shall appear just, either for the past or future maintenance of such poor person or persons, and may tax costs for either party, and issue execution on their judgment, under the hand and seal of the said quorum justice, who shall keep the records and proceedings, and who shall be competent to certify such records and proceedings. And where the judgment

Masters of vessels to give a list of passengers,

and liable for their support if they become chargeable to the town.

Three justices to determine disputes concerning maintenance of the poor.

Persons ag-
grieved may
apply to su-
perior court.

judgment of such justices shall be against any town or place, the execution shall issue against the inhabitants of such town or place. And the said justices shall be allowed six shillings per day and travel, as in cases of taking depositions; the petition shall be taxed as a writ; the fees for copying, for execution, and the parties and witnesses fees, the same as in other cases at the court of common pleas; and in case the person or persons against whom such order may be made for future maintenance, shall disobey such order, the petitioner, or person or persons in whose favor the order was made, may apply by way of petition to the former justices, or any three other justices in the same county, one of whom shall be of the quorum, setting forth the former order, and that the same hath not been obeyed. And notice in manner as before mentioned, shall be given, and on a full hearing of the parties, or such of them as attend, the said justices may make such new order as may be just and issue execution for such damages, as the petitioner may have sustained, by reason of the said order not having been obeyed, and may tax double costs for the petitioner, and so often as occasion may require. And the person or persons aggrieved at any judgment given by any justices as aforesaid, may, any time within six months after said judgment given, petition the justices of the superior court setting forth the original petition, and order or sentence thereon, and briefly stating the evidence produced on trial, and assigning such errors as shall appear therein; and the petition shall be filed in the office of the clerk of said superior court, and a copy thereof, attested by the clerk, with a notification signed by the petitioner to the adverse party, to appear at the next superior court to be holden in the county where the order was made, and shew cause why the prayer thereof should not be granted, shall be served upon the adverse party, fifteen days before the sitting of said court. And the petitioner shall enter his said petition, and shall produce copies of the papers filed in the cause; and the justices of said superior court shall hear the said parties, or such of them as appear, on the matters and causes assigned in error, as well in fact, as in law, and issues in fact shall be tried by jury.

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And in case the first sentence be reversed, the said superior court shall award to the petitioner restitution of all damages and costs sustained by the original judgment, with additional costs; otherwise the adverse party shall recover double costs, and execution shall issue accordingly. And in case, in any such dispute, the parties litigant, live in different counties, one of the justices of the peace empowered to hear and try the same, shall be a justice and of the quorum throughout the State.

And be it further enacted, That no application to the superior court in any case, shall supersede any process of the three justices, until the final order of the said superior court.

This act passed February 15, 1791.

Process not to be superseded by application to superior court.

AN ACT to regulate the proceedings for extinguishing fires that may be accidentally, or otherwise kindled among buildings, to prevent the keeping of fires in unsuitable houses and places, to preserve goods endangered by such fires, and to remove or demolish buildings judged to be dangerous to the public safety.

Passed April 6, 1781.

WHEREAS it frequently happens when buildings contiguous take fire, that the people assembled to extinguish it, proceed without order or regularity, whereby the end in view is often defeated. And as goods at such a time are inevitably exposed to plunder, some hardy evil minded persons take advantage of the calamity and steal such goods, whereby the loss of such sufferers is increased; and the laws of this State respecting the proceedings to extinguish fires, &c. being found ineffectual for the purposes for which they were made:

Preamble.

Therefore,

BE it enacted by the Council and House of Representatives for said State, in General Assembly convened, That all and every law of this State, and every clause therein respecting the extinguishing such fires, and proceedings thereat, be, and hereby are repealed and declared null and void.

Repealing clause.

And be it enacted by the authority aforesaid, That

U U

the

Firewards.

Their badge and duty.

Their power

Inhabitants duty.

Penalty for assuming the office.

the freeholders and other inhabitants of Portsmouth, in the county of Rockingham, and State aforesaid, being qualified voters, may at their annual or other legal town meeting, choose and appoint any suitable number of freeholders therein, being persons of approved ability and fidelity, who shall be denominated firewards, and have for a distinguishing badge of their office, a staff of five feet long, painted red, and headed with a bright brass spire six inches long. And the firewards aforementioned, are hereby required, upon notice of the breaking out of fire in said town, to take with them the badges of their office, and immediately repair to the place where such fire may be, and vigorously exert themselves, and require and demand assistance of any inhabitants of said town, to extinguish and prevent the spreading of such fire, and to remove goods and effects out of any houses or places endangered thereby. And the firewards may appoint necessary guards to secure and take care of such goods and effects.

And the said firewards are hereby empowered to require and demand assistance from said inhabitants to pull down, blow up, or remove any house or buildings, provided it shall be thought necessary by a majority of the firewards then present, for the preventing of the spreading and progress of such fire; and they are hereby empowered to suppress with force, if necessary, all tumults and disorders, and to order and direct the labor of all persons present during the continuance of the fire; and the inhabitants aforesaid are hereby required to yield due obedience thereto. And if any such inhabitant shall refuse or neglect to obey the orders of such firewards, or any of them in a time of fire, acting within his limits, and in a matter whereunto his office relates, such offender shall upon due conviction thereof pay a fine not exceeding ten pounds; provided such offender be prosecuted therefor within six months from the time of committing the offence.

And be it further enacted, That if any person shall assume the office of a fireward, not being thereunto legally chosen as aforesaid, or shall use the badge aforesaid, he shall be liable to pay a fine of fifteen pounds.

Be it further enacted, That if any evil minded person

son or persons, shall take advantage of such calamity to plunder, embezzle, convey away, or conceal any goods or effects of any inhabitant of, or resident in said town at the time of such fire, and shall not restore or give notice thereof to the owner or owners, if known, or bring said goods or effects to some place appointed by the firewards, within the space of five days after proclamation for that purpose, the person or persons so offending and being convicted thereof, shall suffer the same pains as by law provided in case of theft; and the penalty of ten fold the value of the goods so plundered, embezzled or concealed.

Penalty for
plundering
in time of
fire.

And be it further enacted, That the major part of such firewards, present at any such fire, are hereby empowered to cause any houses or buildings to be pulled down, blown up, or removed as they shall judge necessary to stop the progress of such fire. And if by destroying any such houses or buildings as aforesaid, the fire shall be stopped, or if the fire shall be stopped before it reach the same, every owner of such house or building shall receive a reasonable satisfaction for the damages sustained thereby, to be paid by the other inhabitants of said town; to which end the selectmen of the town for the time being, on application, are hereby ordered to compute and adjust the value of said house or building, and the damage sustained by the destruction thereof as aforesaid, according to equity; and to assess the polls and estates in said town liable to make good such value and damage, in a just proportion as for other town taxes, which shall be levied as other town taxes are. And if such selectmen shall refuse or neglect to adjust said damages, or to make adequate compensation for such loss, the party aggrieved may apply to the court of general sessions of the peace for said county, at the expiration of three months after such damages sustained, for redress; which court are hereby empowered to support, hear and determine such complaint, and give judgment thereon according to equity; and in case they find the complaint just, shall render judgment for the complainant for adequate damages and costs, for which they shall assess the said inhabitants, except the complainant, in manner as the law directs the selectmen to do for other town rates, which shall

Firewards
may cause
buildings to
be razed.

Compensa-
tion to own-
ers in case.

Application
to General
Sessions.

be

be levied and collected in the same manner as other town taxes, and paid by the collector to the complainant. But it is to be understood, that if the house or building wherein or whereat the fire first began, be pulled down, or blown up by order of said firewards, or when any other house or building shall be pulled down or blown up by order of said firewards to stop the progress of the fire, and it is not stopped thereby, and it appears to the firewards that the same must have been absolutely burnt had it not been pulled down, or blown up; in such case the owner of any such house or building shall not be entitled to such compensation as aforesaid.

Be it further enacted, That the firewards of said Portsmouth, or the major part of them, are hereby empowered to inspect and search all houses and places within their limits, wherein they apprehend any danger may arise for want of repairs of buildings or chimneys, or from not laying a good foundation for fire-places, or by reason of bad chimneys, or hay, or other combustible matter being so near, or so exposed to fire, as to be likely to take fire thereby and communicate it, in all, or any of which cases, it shall be the duty of the said firewards to inspect and search as aforesaid, and to order the owner or occupant of any such dangerous houses, chimneys or places to make such amendments, repairs and alterations therein, as the said firewards shall judge necessary for the public safety, which shall be made accordingly within thirty days (unless the firewards think fit to lengthen that time) from the time of giving notice to the owner or occupant. And if the same shall not be done according to such order, then the said firewards or major part of them, are hereby empowered to cause the same to be done, and the selectmen of said town for the time being, are hereby required to furnish money for that purpose. And the said selectmen on behalf of the town, shall have and maintain an action against the owner or occupant aforesaid, for the money so advanced, and the reasonable services of said firewards in causing the same to be done; in which action the said selectmen shall recover double costs. And every such decayed building in which the owner does not dwell or occupy, which said firewards apprehend

Firewards to
view houses,
&c.

and order
repairs.

Firewards
may make
repairs at the
charge of the
owner where
he neglects.

apprehend

apprehend to be dangerous, and not worth repairing, they may cause the same to be demolished at the cost of the owner or occupant, to be recovered as aforesaid; but the materials shall remain for the use of the owner, except when the owner or owners live out of this State, and there is no occupant in said decayed and dangerous buildings, the charge of demolishing such buildings shall be defrayed by sale of the materials; and the overplus money (if any) after deducting said charge and expense of sale, shall be deposited in the hands of the selectmen of said town, for the use of said owner or owners.

Buildings not worth repairing to be demolished.

And any tenant who shall be obliged to pay any sum of money by virtue of this act, where his lessor ought to have paid the same, shall be allowed for the same out of the rent of the tenement he holds, and may justify the withholding so much from the owner or person to whom the same is payable, unless the parties concerned shall otherwise agree and adjust the matter.

Owners of such buildings to pay the costs.

And be it further enacted, That every house of two stories high, which has four fire-places, shall be provided with one leather bucket; every such house having six fire-places, shall be provided with two such buckets, and having eight or more fire-places, with four buckets as aforesaid, fit for, and to be used in the case of the breaking out of fire; which buckets shall be provided and constantly kept for the use aforesaid, at the charge of the owner of every such house. And every house shall have thereon a good secure ladder or ladders, reaching from the ground to the ridge-pole, provided by the owner or occupant; and if provided at the charge of the occupant to be allowed as aforesaid. And if any person or persons shall neglect to provide and keep said buckets and ladders as before required herein, each person so offending shall pay two pounds for every three months neglect therein. And the said firewards are hereby authorized to examine and determine as to the observation and compliance with this act, and shall be allowed as competent witnesses in any suit that may be commenced for any forfeiture incurred by virtue of this act. And all such fines and forfeitures shall be applied by the firewards to purchase tools

Buckets to be provided.

tools and instruments proper to be used at such fires as may accidentally, or otherwise happen in said town.

And whereas it may not be necessary at present to oblige the owners of houses situated at a distance from the compact part of said town, though within the limits thereof, to provide buckets as this act directs,

And whereas there may be some persons within the compact part of the town unable to procure such buckets within the time prescribed :

Firewards to
excuse where
they judge
proper.

Therefore be it enacted, That it shall be in the power of the firewards as they shall judge proper, to excuse the owners of any such detached houses from providing such buckets ; and also to grant a further time, not exceeding one year, to such persons living in the compact part of said town, as the firewards shall judge unable to procure such buckets at present, and to substitute other kind of buckets for that end in the mean time.

That all fines and penalties inflicted by this act, be deemed and taken in silver money at the rate of six shillings and eight pence per ounce, or the value thereof in any current paper bills of credit.

And be it further enacted, That any town or towns in this State, at their annual meeting, or any other meeting called for that purpose, may adopt the afore- said act ; in which case it shall be considered to extend to such town or towns adopting the same, as fully to all intents and purposes as to the town of Portsmouth.

This act passed April 6, 1781.

Approved
June 17,
1794.

AN ACT in addition to, and altering of an act entitled "An act to regulate the proceedings for extinguishing fires that may be accidentally or otherwise kindled among buildings ; to prevent the keeping of fires in unsuitable houses or places, to preserve goods endangered by such fires, and to remove or demolish buildings judged to be dangerous to the public safety.

WHEREAS the said act is found by experience to be deficient :

BE

BE it enacted by the Senate and House of Representatives in General Court convened, That instead of the time limited in said act for the firewards to give notice in certain cases therein expressed, they are hereby authorized to give notice for such time as in their opinion the exigency of the case may require, and after such notice may proceed as in said act is provided.

And be it further enacted, That the said firewards shall have the same power with respect to houses or places within their limits where the owner is not known, or no person claims to be owner, whether occupied or not, as by said act they have in other cases; the expence of repairs to be defrayed by the rents of said building or buildings, which the selectmen are hereby empowered to receive until they are reimbursed the necessary expence, and in case of demolition, that the expence be paid by sale of the materials, and the overplus (if any there be) be retained in the hands of the selectmen for the use of the owner or owners, if applied for within one year, otherwise to be for the use of the town.

And be it further enacted, That all pitch-pots and other fires kindled in improper places, on the wharves or elsewhere, shall be under the inspection of the said firewards, who shall have power to remove or extinguish them, as the public safety may require.

Approved June 17, 1794.

AN ACT to prevent the keeping of large quantities of gun-powder in private houses in Portsmouth, and for appointing a keeper of the magazine belonging to said town.

Approved
Feb. 18,
1794.

WHEREAS the keeping of large quantities of gun-powder in private houses in Portsmouth aforesaid, or in merchant ships, or vessels lying at the wharves in said town, would greatly endanger the lives and properties of the inhabitants thereof in case of fire; which danger might be prevented, by obliging the owners of such powder, to deposit the same in the magazine provided by said town for that purpose:

Therefore,

Therefore,

Gun powder
not to be
kept in
dwelling-
houses, &c.

Fine.

Deposited in
magazine.

Keeper of
magazine to
be chosen.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any person or persons, shall keep in any dwelling house, store or other building on land, within the limits of said Portsmouth, except the magazine aforesaid, more than ten pounds of gun-powder at any one time, which ten pounds shall be kept in a tin cannister, properly secured for that purpose, such person or persons shall forfeit the powder so kept, to the firewards of said Portsmouth, to be laid out by them in purchasing such utensils as they may judge proper for the extinguishing of fire; and the said firewards are hereby directed and empowered to seize, and cause the same to be condemned in any court of record proper to hear and try the same, to be disposed of for the purpose aforesaid. And the offender shall also forfeit and pay a fine for the use of the poor of said Portsmouth, equal to the value of the powder so kept in any store, dwelling house or building; which fine, shall be sued for and recovered by the overseers of the poor of said Portsmouth, for the use of said poor, in any court of law proper to try the same.

And be it further enacted by the authority aforesaid That every master of any merchant ship or vessel bringing gun-powder into said Portsmouth, shall, within the space of forty-eight hours after his arrival, deposit in said magazine, all the gun-powder by him brought as aforesaid; and if he shall neglect so to do he shall pay a fine of thirty pounds, for the use of the poor of said Portsmouth, to be recovered by said overseers in manner aforesaid.

And be it further enacted, That there shall be chosen annually, or oftener if necessity require, by the inhabitants of said Portsmouth, being legal voters, a keeper of said magazine, whose duty it shall be, to receive into and deliver out of said magazine, all the powder so deposited, and to account therefor, who shall have a right to demand and receive for his time and trouble in attending on said business, at the rate of one shilling per hundred weight, for all quantities of powder above ten pounds, that he shall so receive into, and deliver out of said magazine; and for all quantities under ten pounds, at the rate of a half penny per pound.

And

And be it further enacted, That no person shall transport or carry through the compact part of the town of Portsmouth, more than ten pounds of gun-powder at any time without the same is in a close carriage, or is sufficiently covered, on penalty of forfeiting the sum of one dollar for each offence, to be recovered and applied in the same manner as is herein before directed.

And be it further enacted, That the act to prevent the keeping large quantities of gun-powder in private houses in Portsmouth, passed the twenty-eighth day of February, one thousand seven hundred and eighty-six, be and hereby is repealed.

Approved February 18, 1794.

AN ACT for the admeasurement of boards, and for regulating the sale of shingles, clapboards, hoops and staves; and for other purposes therein mentioned.

Passed June 21, 1785.

BE it enacted by the Senate and House of Representatives in General Court convened, That the president, with advice of council, appoint as often as occasion may require, a surveyor or surveyors in the towns of Portsmouth, Dover, Durham, Somersworth, Newmarket, Exeter, and any other town or towns within this State, which shall apply for the appointment of the same, who shall survey and measure boards, plank, spars, timber, slitwork, shingles, clapboards, staves and hoops, and who shall be sworn to the faithful performance of the trust reposed in them. And all boards, plank, spars, timber or slitwork, offered to sale, shall previous thereto, be surveyed, and also measured by one of the said surveyors, where he shall have any doubt of the measure, having due consideration for drying and shrinking, who shall also mark a-new all such to the just contents thereof, making reasonable allowance for rots, knots and splits. And the buyer shall pay to the surveyor six pence per thousand feet for viewing only, and six pence per thousand feet more for measuring and marking, and so in proportion for a less quantity.

The president with advice of council, to appoint surveyors of boards, &c.

And be it further enacted by the authority aforesaid,

V v

That

Boards to be
square edged
and one
inch thick.

Dimensions
of shingles.

That no pine boards shall be shipped for exportation to a foreign market, but such as are square edged, and not less than one inch in thickness, and not less than ten feet in length, on pain of being forfeited to the use of the town where they shall be shipped.

And be it further enacted, That no shingles, clapboards, staves or hoops, shall be offered for sale in any town in this State, that shall be under the following dimensions, viz. All shingles shall be split cross ways the grain, and be eighteen inches long, except those made for home use; pine shingles shall be free from sap, and all shingles shall be free from shakes and worm holes, and shall be half an inch thick at the butt end, when green, and full three eighths of an inch, when thoroughly seasoned, if for exportation to a foreign market; and not less than one third of an inch thick at the butt, when fully seasoned, if for home use, and four inches and an half wide on an average, and none less than three inches wide, and shall hold their width three fourths of the way to the thin end, and be well shaved; and each bundle shall contain two hundred and fifty shingles, or if bound in square bundles, shall contain twenty-five courses, and measure twenty-two inches and an half at the lay; and in case there should be more than five shingles in any one bundle, that are not of the above length, breadth and thickness, or five short in the tale of any one bundle of two hundred and fifty, the bundle that is so deficient, or in which such shingles are contained, shall be forfeited, and the shingles in each bundle, which are not merchantable shall be burnt, and the residue sold; and the monies arising from said sale, shall be paid into the hands of the selectmen, for the benefit of the poor of such town where the shingles are so condemned, first deducting therefrom the charge of culling and surveying.

And all white oak butt staves shall be at least five feet in length, five inches wide, and one inch and a quarter thick on the heart or thinnest edge, and every part thereof.

And all white oak pipe staves shall be at least four feet and eight inches long, four inches broad in the narrowest part, and not less than one inch thick on the heart or thinnest edge.

And

And all white oak hoghead staves shall be at least forty-two inches long, and not less than three quarters of an inch thick on the heart or thinnest edge.

Hoghead staves.
Breadth of hhd. and barrel staves:

And all white oak barrel staves, for foreign market, shall be thirty two inches long, and for home use shall be thirty inches long, and all shall be half an inch thick on the heart or thinnest edge.

Barrel staves

And all white oak hoghead and barrel staves shall be at least one with another, four inches in breadth, and none less than three inches in breadth in the narrowest part, and those of the breadth last mentioned shall be clear of sap.

Breadth of hhd. and barrel staves:

And all red oak hoghead and barrel staves shall be of the same length, width and thickness with the white oak hoghead and barrel staves above mentioned.

Red oak hhd. & barrel staves.

And all staves shall be well and proportionably split; and all pine clapboards that shall be exposed to sale, shall be made of good sound timber, clear of sap, and all clapboards shall be free from shakes and worm holes, and of the following dimensions, to wit: Full five eighths of an inch on the back or thickest part, five inches wide, and four feet six inches long, and they shall be strait and well shaved.

Dimensions of clapboards.

And all hoghead hoops that shall be exposed to sale, shall be from ten to fourteen feet long, and shall be made of white oak or walnut, and of good and sufficient substance, well shaved: Those made of oak shall not be less than one inch broad, at the least; and those made of walnut shall not be less than three quarters of an inch broad at the least; and each bundle shall consist of thirty hoops; and all hoops of ten, twelve, and fourteen feet respectively, shall be made up in distinct bundles by themselves; and if any hoops are packed, of less dimensions than those prescribed by this law, or if any bundle shall contain less than thirty hoops, such bundle shall be forfeited and sold for the benefit of the poor of the town where it is offered for sale.

Hhd. hoops.

And all white oak hoghead heading, which shall be offered to sale within this State, or exported to a foreign market, shall be one inch thick, thirty inches long, and not more than five pieces to a head.

Hh. heading.

All shooks shall be forty inches long, and not less than

Shooks.

than two inches and an half wide at the ends, and full half an inch thick when dressed.

And be it further enacted, That the surveyor of shingles and clapboards shall be allowed by the buyer, three pence per thousand for surveying and telling; and before any shingles are sent from the town where they are made, or at the place of first sale, before their delivery, they shall be viewed, surveyed and measured by a sworn surveyor, and a brand with the letters N. H. to be provided by each town wherein such surveyor is appointed, shall be set upon the hoop of the bundle. And all shingles offered for sale, without being surveyed and marked as aforesaid, shall be forfeited and disposed of as before in this act is provided.

And there shall be two or more suitable persons chosen by the town of Portsmouth, at their annual meeting in March, to be viewers and cullers of staves and hoops, who shall be under oath, faithfully to discharge their office; and they shall be allowed for their time and service as follows, to wit: One shilling and eight pence per thousand for barrel staves; two shillings per thousand for hoghead staves; two shillings and four pence per thousand for pipe staves; two shillings and eight pence per thousand for butt staves, as well refuse as merchantable, the merchantable to be paid for by the buyer, and the refuse by the seller, and two shillings per thousand for heading; and the culler shall be allowed one farthing for each shook, and three shillings per thousand for hoops.

And be it further enacted, That from and after the first day of June next, all staves that shall be exported from this State beyond sea, shall be first culled, and all hoops first viewed and surveyed by one of the officers aforesaid, and a certificate given by a culler or surveyor to the master or commander of the ship or vessel on board which they are laden, of the quantity by him so culled or surveyed; and the band with which the bundles of hoops are bound, shall be sealed with the brand of the town from whence they are exported: And that all shingles and clapboards that shall be exported beyond sea, shall likewise be certified by one of the surveyors already required by law to be chosen, to have been by him surveyed

Fee for surveying shingles and clapboards.

Viewers and cullers to be appointed.

Their fees.

All staves & hoops, for exportation, to be first culled and surveyed, & a certificate thereof given

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surveyed, viewed and approved, and the number or quantity thereof; and any sellers of boards, staves, hoops, shooks, heading, clapboards or shingles, that shall deliver any of said articles for exportation, before they are culled or surveyed, shall forfeit one quarter part of the articles so delivered; and any person purchasing for exportation any of the articles before enumerated, and who shall receive them before they are culled or surveyed, shall forfeit one quarter part of the articles so purchased, one half to the informer who shall sue for the same in any court in this State proper to try the same, or before any justice of the peace in the county where the said penalty shall become due, in case the forfeiture does not exceed forty shillings; the other half to the poor of the town where the offence is committed.

Penalty for delivering boards, &c. before they are culled or surveyed;

also a penalty for receiving &c. &c.

And be it further enacted, That from and after the said first day of June next, the master or owner of any vessel having any staves, hoops, shooks, boards, clapboards, shingles or heading on board for their cargo, and which shall be shipped for exportation to a foreign market, after the said first day of June next, before such vessel shall be cleared at the naval office, shall produce a certificate that such staves, hoops, shooks, boards, clapboards, shingles and heading, have been culled or surveyed, and shall likewise make oath before the naval officer (who is hereby required and empowered to administer the same) or before any justice of the peace, who shall give a certificate of said oath, which shall by the master or owner be transmitted to the naval officer, that the boards, staves, hoops, shooks, clapboards, shingles and heading, on board his vessel, are bona fide the same certified to have been culled or surveyed, and that he has no other on board, and that he will not take any others on board.

The master or owner, before clearing, to produce a certificate.

And be it further enacted, That from and after the said first day of June next, if any person shall presume to ship off any boards, staves, hoops, shooks, clapboards, shingles or heading, unless the same shall have been first culled or surveyed and marked by a sworn culler or surveyor, as by this act required, he shall forfeit one quarter part of such articles, to be disposed of, one half to the poor of the town where the

Forfeiture for shipping off boards, &c. before they are culled or surveyed.

the

the offence is committed, and the other half to the surveyor, or any person or persons who shall sue for the same; which he or they are enabled to do by action, bill, plaint, or information in any court proper to try the same.

Penalty on
the surveyor
neglecting
his duty.

And be it further enacted, That in case any culler or surveyor shall connive at, or allow of the breach of this act, or shall be guilty of any fraud or deceit, in surveying or culling of boards, staves, hoops, shooks, clapboards, shingles or heading, he shall forfeit and pay the sum of ten pounds for each offence; and in case of his refusal to attend the aforesaid service, when he shall be thereto requested, he shall forfeit and pay the sum of twenty shillings; the forfeitures and penalties to be recovered and disposed of as aforesaid.

Thickness
of plank,

And the standard for the thickness of merchantable plank shall be two inches; and when any shall be purchased for particular use, of different thickness, it shall be admeasured and calculated by that standard.

Repealing
clause.

And be it further enacted by the authority aforesaid, That all acts heretofore made for the admeasurement of boards, and for regulating the tale and dimensions of shingles, clapboards, hoops, shooks, staves, and heading, be, and they are hereby repealed.

This Act not to be in force until the first day of June next.

This act passed June 21, 1785.

Passed Jan.
4, 1792.

AN ACT to prevent damage which may be done by lumber to the owners of lands lying on, and adjoining Connecticut river and Merrimac river.

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the first day of May next, if any lumber, such as masts, spars, or logs of any kind, which have been, or may be put into either of the said rivers or the streams running into them, and which have been, or may be, by the waters thereof, carried or lodged on any improved land adjoining the same in this State, and which may not be taken away by the owner or his agents, on or before the twentieth day of May in any year hereafter, it shall be the duty of the owner or owners

of

of said land to lodge a list by him subscribed of such lumber with the town-clerk, in the town where such lumber may be lodged, of the number of masts, spars and logs with the marks on the same, on or before the last day of June following in each year, and the town-clerk shall enter the same on his book of records, for which he shall be paid the usual fee for recording as in other cases, by the owner of said lumber, if the same shall be taken away by him, otherwise to be paid by the person or persons to whom said lumber shall be forfeited, and if any owner of logs recorded as aforesaid, or his agent, shall not take away the same, on or before the twentieth day of May, in each year after the time limited for such record, or if any owner of any masts or spars, recorded as aforesaid, shall not take away the same within twenty-three months from and after the date of the said record, all such logs, masts and spars shall become forfeit. And it shall, and may be lawful for the owner or owners of said lands, his or their agent or agents, to dispose of the said lumber to his, or their use and benefit.

And be it further enacted, That in case any of the lumber aforesaid, hath been, or shall be lodged or carried on as aforesaid on any unimproved lands, and the owner wishes to clear the same for improvement, he shall proceed in the same manner as aforesaid, in recording the same, and the lumber when recorded, shall become forfeit at the same time and in the manner as aforesaid.

And be it further enacted, That if any person or persons shall stop any masts, spars or logs, and confine them in any place so as to prevent the same from floating down the said rivers that are or shall be marked with any owner's name or mark, or make use of, or dispose of the same, otherwise than such as may become forfeit as provided in this act, he shall forfeit and pay such owner or owners three times the value of said lumber to be recovered in any court proper to try the same.

This act passed January 4, 1792.

Approved
June 17,
1794.

AN ACT, in addition to, and amendment of an act entitled, "An Act to prevent damage which may be done by lumber to the owners of lands lying on and adjoining Connecticut river and Merrimack river, passed the fourth day of January, one thousand seven hundred and ninety-two."

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the first day of May next, if any lumber, such as masts, spars or logs, of any kind, which have been or may be put into either of the said rivers or the streams running into them, and may be by the waters thereof carried or lodged on any improved lands adjoining the same in this State, and which may not be taken away by the owner or owners, his or their agent or agents, on or before the tenth day of May annually, it shall, and may be lawful for the owner or owners of the said land, to detain in his or their possession, all such masts, spars and other lumber until the owner or owners thereof, his or their agent or agents, pay the owner or owners of the land so incumbered, all the damage sustained by reason of said lumber lying on his or their land as aforesaid, and in case the owner or owners of such incumbrance, or his or their agent or attorney, and the owner or owners of such lands so incumbered, shall not agree upon the damage sustained as aforesaid, the selectmen of the town where such lands lie, or the major part of them, in case they be not interested, shall adjust the same, and in case the major part of said selectmen are interested therein, any three justices of the peace in the county where such land lie, who are not interested, shall adjust the said damage done as aforesaid, which shall be final and conclusive between the said parties.

Masts, spars,
&c. may be
detained.

By whom
damages
shall be ad-
justed.

Incumbrances not re-
moved, then,
&c.

Provido.

And be it further enacted, That if such incumbrance shall not be removed by the owner or owners thereof or his or their agent or agents, on or before the first day of November annually, then the owner or owners of such lands so incumbered, may take all such incumbrances and convert the same to his or their own use. *Provided always,* That when the owner or owners of such masts, spars, and other lumber as aforesaid, shall have paid the damage as aforesaid, the owner

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owner or owners of all such lumber shall have liberty to remove the same from all such improved lands, any time between the said first day of November, and the first day of May then next, any law, usage, or custom to the contrary notwithstanding,

Approved June 17, 1794.

AN ACT for the regulating the gauging of casks.

Passed Jan:
12, 1787.

WHEREAS the regulation of the gauging of casks is highly necessary to prevent fraud and injustice :

Preamble.

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the first day of March next, all casks in which rum, wine, or other spirituous liquors, or molasses shall be exposed to sale by the gallon, shall be mathematically gauged by Gunter's scale, and the quantity said casks can contain, together with the ullage thereof, set and marked on one head by the gauger, with a marking iron, for which he may demand and receive three pence from the owner or owners thereof, for every cask by him so gauged, and no more. And in case any purchaser shall not be satisfied with the account so marked, he may have the same gauged again in his presence ; and if upon such examination the account aforesaid shall be found to be true, such second gauging shall be at the cost of the purchaser ; but if it is found to differ the second also shall be at the cost of the owner as aforesaid. And the selectmen of the several towns and parishes aforesaid, are hereby ordered, as there shall be occasion, or when they shall be requested by any of the inhabitants within their respective limits, to nominate and appoint a fit person or persons to the said office, who shall serve till another shall be chosen and sworn in his or their stead, to the true and faithful discharge thereof, as every one who shall be thereto appointed, shall be by any justice of the peace in the following words, *mutatis mutandis* :

Casks to be
gauged by
Gunter's
scale.

You A. B. being appointed a gauger, according to law, do swear, that you will diligently attend, and faithfully discharge and execute the office and duty of a gauger

Gauger's
oath.

W w

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ger within the limits whereto you are appointed, until another shall be chosen and sworn in your place, and that in and by all the particulars mentioned in the law whereto your office hath relation, and you shall act therein impartially, without fear or favor. So help you God.

And any person who shall presume to sell any rum, wine, spirituous liquors, or molasses as aforesaid, without being gauged as this act directs, shall forfeit and pay the sum of forty shillings for each cask, the one half for the use of the poor of the town or parish where the offence is committed, and the other half to any person who will sue for the same; or said forfeiture may be recovered by presentment of the grand jury at the court of general sessions of the peace; in which case, the whole of the forfeiture shall be for the use of the poor as aforesaid.

This act passed January 12, 1787.

Passed June
17, 1788.

AN ACT in addition to an act, entitled, "An act for the regulating the gauging of casks."

WHEREAS it often happens that the gauger is obliged to gauge a single cask only, for which by the said act, he can demand three pence, which is found in such case to be inadequate for such service:

Preamble.

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That whenever any gauger shall be required to gauge one single cask only, he may demand and receive therefor, the sum of six pence instead of the three pence allowed by said act, and whenever any gauger shall be required to gauge more casks than one at the same time, he shall receive no more than three pence for each cask he may so gauge, as in and by said act directed.

Gauger's
fees.

This act passed June 17, 1788.

Passed June
16, 1791.

AN ACT regulating swine.

BE it enacted by the Senate and House of Representatives in General Court convened, That no swine shall be suffered to go at large on any highway or common

common within this State, at any time between the first day of April and the last day of October annually without being yoked and ringed according to law, on penalty that the owners forfeit and pay one shilling and six pence for each offence, to be recovered by action of debt before any justice of the peace by any hogreeve, or any freeholder of the town or place where such swine shall be found, who will sue for the same, with costs of prosecution, unless it appear that such swine were accidentally out of the owner's enclosure.

Swine not to go at large, except under certain restrictions,

And no swine shall be suffered at any time in the year to go at large in the compact part of the town of Portsmouth, which is described and bounded as follows, viz. beginning at the westerly side of the gaol, thence running southerly to the head of Pickering's mill-pond, thence easterly by said pond to the river, thence northerly by said river to Boyd's mill-pond, and thence to said place of beginning, on penalty that the owner forfeit the swine so going at large, to any person who will take up and secure the same, unless it shall appear that said swine were accidentally out of the owner's enclosure.

nor at all in the town of Portsmouth.

And no swine in any other part of the State, shall at any time in the year be suffered to go at large, without a ring in the nose sufficient to prevent rooting, on pain that the owner forfeit one shilling and six pence for each offence, to be recovered by any hogreeve or freeholder in manner as aforesaid; and no yoke shall be accounted sufficient, unless it be as much as the depth of the swine's neck above the neck, and half as much below, and unless the sole or bottom of the yoke be three times as long as the thickness of the swine's neck.

And in case the owner of any swine which are found going at large unyoked and unringed, as the law requires, shall not be known to the hogreeve or freeholder as aforesaid, finding such swine, he shall have full power to impound them, and shall give notice in the town or place where they shall be impounded, and in two adjacent towns, by causing a notification thereof, with the natural and artificial marks (if any) of such swine, and by whom impounded, to be posted in some public place in each of the respective

Notice of impounding

respective towns aforesaid, and if no owner shall appear within six days after such notifications are set up, or appearing shall refuse to pay the penalty aforesaid, with charges of impounding and supporting said swine (which support every impounder shall cause to be furnished) then the person impounding such swine may apply to a justice of the peace, who is hereby ordered and directed to issue a warrant of appraisement to two suitable persons to appraise the said swine upon oath, by him to be administered; and the impounder may take such swine to his own use at the appraised value, or he may expose them to sale at public auction, giving twenty-four hours notice beforehand of the time and place of the intended sale, and he shall be allowed all reasonable cost and charges for his trouble, assistance, time in driving, charge in supporting, advertising and selling or appraising said swine as aforesaid, to be adjusted by the justice that grants the warrant of appraisement; and if no owner shall appear, and there remains any overplus money after the penalty and all costs and charges are deducted, either from the appraised value or the proceeds of such sale as aforesaid, as the case may be, such overplus money shall be delivered to the justice who adjusted the charges as aforesaid, to be by him paid to the owner if he apply for the same within one year from the time of his receiving the same, and in case he do not apply within the said time, then to be delivered to the overseers of the poor of such town or place where the impounding is, for the use of the poor of such town or place.

And be it further enacted, That it shall be the duty of the hogreeves in the respective towns and places in this State, to see that all swine going at large be yoked and ringed as the law requires; and if they find any swine going at large unyoked or unringed, according to law, or if complaint be made to them of any such within their respective towns or places, in such case the hogreeve shall notify the owner of the swine, if known, to yoke and ring the same, and if the owner neglect so to do after notice given, for the space of twenty four hours, then the hogreeve shall yoke and ring such swine as the case may require, and shall have as a fee for notifying, for each

Hogreeve's
duty.

swine

swine in all cases three pence, and one shilling for yoking, and six pence for ringing every swine so by him yoked or ringed; to be recovered by action against the said owner; but if the owner be not known, then the swine going at large unyoked and unringed shall be impounded, and proceeded with as aforesaid by the hogreeve, or by any freeholder as aforesaid, in manner before directed.

And be it further enacted, That the inhabitants of any town, may at any legal meeting agree upon any method other and different from that mentioned and prescribed in this act (except what relates to the compact part of Portsmouth as before described, and except what relates to ringing) for regulating the swine within the same town, which regulations shall last for one year only, upon such pains and penalties as shall be adequate to the purpose of carrying the same into execution.

Town regulations.

This act passed June 16, 1791.

AN ACT regulating licensed houses.

BE it enacted by the Senate and House of Representatives in General Court convened, That no person shall exercise the business of a taverner or retailer without licence. And if any person shall at any time without licence, first had and obtained in writing from the selectmen of the town or place where such person belongs, sell any wine, rum, gin, brandy or other spirits by retail, that is, in less quantities than one gallon sold, delivered and carried away at one and the same time, or shall sell any mixed liquors, part of which are spirituous, such person shall for every such offence forfeit and pay the sum of forty shillings, to be recovered by any person who will sue for the same, one half thereof to his own use, the other half to the use of the county where the offence is committed.

Passed June 14, 1791.

Taverners & retailers to be licensed, &c.

Provided always, and be it further enacted, That no licence of the selectmen to keep tavern, or to retail, shall be of any avail to the person licensed, until such licence shall be recorded in the book of records belonging to such town or place by the clerk thereof, who shall be paid nine pence therefor.

And

And provided further, That if the selectmen shall unreasonably neglect or refuse to license any suitable person applying therefor, such person and suitable persons in towns and places where there are no selectmen, may apply to the court of general sessions of the peace in the same county, who may if they think proper, license such persons.

And be it further enacted, That no licence shall be for more than one year from the time of granting the same.

Taverner's
duty.

And be it further enacted, That every person licensed to keep tavern, shall at all times be furnished with suitable provisions and accommodations for travellers, their cattle and horses, on penalty of forfeiting the sum of twenty shillings to the use of any person who will sue for the same, and may on complaint made be deprived of their licence.

And be it further enacted, That no taverner shall suffer any of the inhabitants of the town or place where such taverner lives, to remain in his house drinking and tipping (such person having no lawful and necessary business there) after nine of the clock in the evening, nor at any time on the sabbath, nor shall any taverner suffer any person at any time to drink to drunkenness or excess in his house, or suffer any minor or servant to sit drinking there, without the leave of their parent, guardian or master, on penalty of forfeiting twenty shillings for every such offence, on conviction before any justice of the peace in the county where the offence is committed.

Penalty for
allowing gam-
ing.

And be it further enacted, That no licensed person shall have or keep in, and about his house or houses, out-houses, yards, gardens or places to him belonging, any cards, dice or any other implements used in gaming, nor shall any such licensed person suffer any person or persons to use or exercise any such implements, or to play at any unlawful game or sport, such as cards, dice, nine-pins or billiards, within his house or house out-houses, yards, gardens or places to him belonging, on penalty of paying a fine of forty shillings for each offence, to be recovered on complaint to a justice of the peace, and said fine shall be appropriated one half to the use of the complainant, and the other half to the use of the county in which the conviction shall be,

be, which shall be the same in which the offence is committed; or said fine may be recovered on indictment of the grand jury, in which case the whole shall be to the use of the county.

And every person convicted of playing at any unlawful game in any of the places before mentioned, shall be fined for each offence twenty shillings, to be recovered and appropriated as in the case last before mentioned.

And be it further enacted, That no person licensed to retail only, or any other person, excepting taverners, shall sell any mixed liquor, part of which is rum, brandy, wine, gin or other spirituous liquors, to any person directly or indirectly, or suffer any person to drink any such mixed liquor so sold, or to drink any rum, brandy, gin, wine or any other spirituous liquor sold by him in his shop, house or the appendages thereof, on penalty of forfeiting the sum of forty shillings for every such offence, to be recovered and appropriated in the same manner as the forfeiture for selling without licence, as before mentioned; nor shall any such retailer sell any rum, wine, gin, brandy or other spirituous liquors, in less quantities than one pint by him sold and delivered at one and the same time.

Penalty on retailers selling mixed liquors.

And be it further enacted, That it shall be the duty of the selectmen, carefully to inspect all licensed houses, and in no case to license persons that keep disorderly houses, and selectmen, tythingmen and grand jurors shall inform of all breaches of this law, and of all disorders that may be committed in any licensed house.

Selectmen to inspect, &c.

And be it further enacted, That all actions, complaints, and indictments for any offences in this act mentioned, shall be commenced, made and found within six months after such offence may be committed, and not afterwards.

Limitation of actions for offences.

And be it further enacted, That every person on being licensed by the court of general sessions of the peace; or on having his licence renewed by the said court, shall pay three shillings, whereof nine pence shall be to the clerk of the court of general sessions of the peace, and the residue for the use of the county, and shall be paid by the said clerk to the county treasurer.

And

And be it further enacted, That no taverner shall be entitled to recover more than twenty shillings, on any account for spirituous liquors sold to any inhabitant of the town or place, and drank in such taverner's house; notwithstanding such taverner may on the trial prove the sale and delivery of spirituous liquors to more than that value and amount.

This act passed June 14, 1791.

Passed June
15, 1791.

The measure
of cord
wood.

Measurers to
be appointed
&c.

Penalty for
selling wood
not measur-
ed.

AN ACT to prevent fraud in cord-wood exposed to sale.

BE it enacted by the Senate and House of Representatives in General Court convened, That all cord-wood exposed to sale, shall be four feet long, accounting to half the kerf, and the wood being well and close laid together, the cord shall measure eight feet in length, and four feet in height.

And in every town and place in this State, where wood is usually sold by the cord, there may be one or more person or persons appointed by such town or place who shall be measurers of wood in such town or place; and such measurers of wood shall be considered as town officers, and sworn as other town officers are, to the faithful discharge of the duties of the office. And it shall be the duty of the said measurers of wood, to measure all wood brought into that town or place for sale by the cord, and to certify the measure, and for measuring and certifying the measure there shall be paid by the purchaser to the measurer, three pence per cord, and no more.

And be it further enacted, That if any person in any town or place in this State, where there is any wood-measurer appointed and sworn, shall sell any wood by the cord, which is not measured by a wood-measurer, the person selling and the person purchasing the same, shall severally forfeit and pay for every cord of wood so bought and sold, thirty shillings, to be recovered before any justice of the peace, not interested in the penalty, the one half of which sum shall be for the use of the town or place in which the same is so bought and sold, the other half to the use of the person suing for the same,

And

And be it further enacted, That if any measurer of wood shall neglect or refuse to do his duty, in measuring and certifying the measure of any wood brought to him to cord or measure, unless he can give a sufficient reason for such neglect or refusal, he shall forfeit and pay for every such offence the sum of thirty shillings, to be recovered and appropriated in manner as before mentioned.

For measurer's neglect.

This act passed June 15, 1791.

AN ACT to regulate flax-seed, pot-ash, and pearl-ash for exportation. Passed June 23, 1785.

BE it enacted by the Senate and House of Representatives in General Court convened, That no flax-seed shall be shipped or exported out of this State, but such as shall have been surveyed, and found to be well cleansed, and in good order, and in casks, each cask containing seven bushels and one peck, or in casks containing one half the said quantity each.

Flax-seed to be surveyed, &c. before exportation.

And be it further enacted, That the president, by and with the advice and consent of the council, be, and hereby is empowered to appoint in such seaport towns within this State as there shall be occasion, one or more skilful and disinterested person or persons to be surveyors, for the surveying and proving flax-seed, who shall be sworn to the due and impartial execution of their trust : And their duty shall be to inspect and survey all flax-seed that shall be intended to be laden on board of any vessel for foreign exportation ; and every such surveyor is hereby authorized to open the casks containing the said commodity, intended to be exported as aforesaid, and if need be, measure and shift the same into other casks, so as thoroughly to examine the whole, and see that it be clear from mixture of wild or other seed or dirt, and of the measure aforesaid. And every cask containing the said quantity, which by such survey and examination shall, according to the surveyor's best judgment, appear to be cleansed as aforesaid, he shall mark or imprint with a burning iron, the following mark or letters, A. P. with the name of the town where it shall be thus approved, the name of the said surveyor at large, and the letter S. at the end thereof, denoting that the same has been surveyed and approved.

Appointment and duty of surveyors.

X x

And

Pot and
pearl ash, to
be assayed,
&c.

Appoint-
ment and
duty of assay
masters.

Penalty for
putting or
receiving on
board, be-
fore or with-
out survey-
ing and
marking.

And be it further enacted by the authority aforesaid, That no pot-ash or pearl-ash shall be shipped or exported out of this State, but such as shall have been assayed, and found to be of sufficient strength and purity, and to have those qualities in such degree of perfection as shall be ascertained and fixed by the president, with the advice and consent of the council, as the standard of such pot-ash and pearl-ash as shall be deemed merchantable and fit for exportation.

And be it further enacted, That the president and council be, and they are hereby empowered to appoint in such sea-port towns within this State, as there shall be occasion, one or more skilful and disinterested person or persons, to be assay masters, for the proving and assaying pot-ash and pearl-ash, who shall be sworn to the due and impartial execution of their trust; and their duty shall be to inspect and assay all pot-ash and pearl-ash that shall be brought to any such sea-port town to be shipped; and every such assay-master is hereby authorized to open the casks or vessels containing those commodities, and to take out so much thereof, as may discover the quality of the whole; and every cask or other vessel of pot-ash or pearl-ash, which, by such assay, shall be found to be good and merchantable, according to the rule or standard that shall be established as aforesaid, he shall mark or imprint with a burning iron, the following mark or letters, A. S. D. with the name of the town where the same shall have been thus assayed, and the assayer's name at large, and the letter A at the end thereof, denoting that the same has been assayed and approved.

And be it further enacted, That if the owner of any flax-seed, pot-ash or pearl-ash, or other person employed by him, shall presume to lade, or put on board any vessel, bound out of this State, any flax-seed, pot-ash and pearl-ash, other than such as shall have been approved by a surveyor or assay master respectively, or shall be contained in any cask or other vessel, that shall not have their marks, stamps, or brands upon it; or if any master of a ship, or other vessel, or other officer or mariner, shall receive on board any such, the offender or offenders shall incur the penalty of five pounds for each cask, or other vessel

vessel so shipped ; to be sued for and recovered in any court of record within this State, proper to try the same ; and all such flax-seed, pot-ash, and pearl-ash (laded or received on board as aforesaid) shall be forfeited. And it shall be lawful for any justice of the peace, upon information given of any flax-seed, pot-ash or pearl-ash, put on board any such ship or other vessel, as aforesaid, not marked as aforesaid, to issue his warrant, directed to the sheriff or his deputy, or constable, requiring them respectively to make seizure of any such flax-seed, pot-ash or pearl-ash, shipped and not marked as aforesaid, and to secure the same in order for trial ; and such officers are hereby respectively empowered and required to execute the same.

And be it further enacted, That if, after any cask or other vessel, containing flax-seed, or pot-ash, or pearl-ash, shall have been approved and stamped with the surveyor's or assay-master's marks, stamps or brands, any cooper or other person shall presume to shift the contents of such cask, or other vessel, and to put therein any flax-seed, pot-ash, or pearl-ash, that has not been duly surveyed or assayed, and approved as aforesaid, such cooper or other person, offending therein, shall forfeit and pay the sum of ten pounds for every cask so shifted ; to be recovered in manner as aforesaid.

Penalty for shifting the contents of casks, &c.

And be it further enacted, That in case any surveyor or assaymaster, appointed and sworn as aforesaid, shall be guilty of any neglect or fraud in assaying or surveying any flax-seed, pot-ash or pearl-ash, contrary to the true intent and meaning of this act, or shall mark with their respective brands, stamps, or marks, any casks containing flax-seed, or pot-ash, or pearl-ash, which they had not actually and thoroughly surveyed or assayed, and which may be intended for exportation out of this State, he or they shall forfeit and pay the sum of ten pounds for every such neglect, or for every cask falsely marked, to be recovered as aforesaid.

Penalty on surveyor for neglect, &c.

Be it further enacted by the authority aforesaid, That each cask (before any pot-ash or pearl-ash are put therein) shall be weighed by the manufacturer of such pot-ash, or pearl-ash, who shall with a marking-iron

Casks to be weighed and marked.

iron mark on one of the heads thereof, the full weight of the cask, and the initial letters of his name; and in case he shall falsely mark the same, such manufacturer, upon conviction thereof, shall forfeit and pay the sum of forty shillings for each cask so falsely marked.

Fee for surveying.

And be it further enacted, That the respective surveyors and assay-masters shall be paid for every cask of flax-seed, pot-ash, or pearl-ash, that they shall survey or assay, the sum of nine pence, provided the number does not exceed six casks; and six pence for each cask exceeding that number exclusive of coo- perage, to be paid by the shipper.

This act passed June 23, 1785.

Passed June 27, 1787.

AN ACT in addition to an act, entitled, "An act to regulate flax-seed, pot-ash, and pearl-ash for exportation."

Preamble.

WHEREAS by an act made and passed by the General Court of New-Hampshire, entitled, "An act to regulate flax-seed, pot-ash and pearl-ash, for exportation," the president and council are empowered to appoint within such sea-port towns within this State, as there shall be occasion, one or more skilful person or persons to be assay-masters, for the proving and assaying pot-ash and pearl-ash whose qualifications and duties are therein set forth; but no provision is therein made, for appointing of any such assay-masters in any other towns, except sea-port towns as aforesaid, and it appearing to be of public utility, that such should be appointed in other towns:

Therefore,

Assay masters may be appointed in any town.

BE it enacted by the Senate and House of Representatives in General Court convened, That the president and council be, and they hereby are empowered to appoint in any town, or towns within this State as occasion shall require, one or more skilful person or persons to be assay-masters, whose duty and qualifications shall be the same, as are by the afore mentioned act required.

This act passed June 27, 1787.

AN

AN ACT in addition to, and for the amendment of Passed Sept. 27, 1787.
an act, entitled, "An act to regulate flax-seed, pot-
ash and pearl-ash for exportation."

WHEREAS in and by said act, it is enacted, that
the casks which contain flax-seed for exportation,
shall contain seven bushels and one peck, or three
bushels and half and half peck, which dimensions of
casks not being beneficial to the trade of this State:

Therefore,

BE it enacted by the Senate and House of Represen-
tatives in General Court convened, That the casks
containing seven bushels, or three bushels and half of
good flax-seed, may be exported out of this State;
any thing in the before mentioned act notwithstand-
ing: And the surveyors or assay-masters of flax-seed,
that are, or may be appointed, may proceed in the
same manner as they are directed in the before men-
tioned act.

This act passed September 27, 1787.

Preamble.

Size of casks
of flax-seed
for exporta-
tion.

AN ACT for the inspection of pot and pearl-ashes.

BE it enacted by the Senate and House of Represen-
tatives of the State of New-Hampshire in General-
Court convened, That no person or persons whatso-
ever shall ship any pot or pearl ashes for exportation,
before he shall first have submitted the same to the
view and examination of the inspector or his deputy,
who shall be appointed as herein after mentioned,
who shall start the same out of the casks, and care-
fully examine, try and inspect the same, and sort
the same in three different sorts if necessary; and
the said inspector shall put each sort by itself in tight
new casks, well hooped and coopered, which he shall
distinguish by the words first sort, second sort, or
third sort, with the words pot or pearl-ashes (as the
same may be) branded in plain legible letters, toge-
ther with the letters of his name, and the place where
such pot or pearl-ashes shall be inspected; as also the
word New-Hampshire at full length on each cask:
For which services, and also the additional service
for re-packing the said pot or pearl-ashes and putting
the casks in good condition for shipping, and for in-
specting

Passed Dec.
28, 1791.

Pot & pearl
ashes to be
inspected
before ex-
portation.

pecting and weighing the same, and delivering to the owner an invoice or weight note under his hand, of the weight of each cask, he shall have and receive four pence half penny for every hundred weight so inspected, to be paid by the purchaser.

Casks how
to be made.

And be it further enacted, That from and after the first day of May next, every cask in which pot or pearl-ashes shall be packed for exportation, shall be made of sound and well seasoned oak or white ash staves and heading, full bound, twenty-nine inches in length, nineteen inches diameter in the head, and of such weight in proportion to its contents, as will amount, as near as may be, to fourteen per centum tare thereon.

Casks to be
weighed.

And be it further enacted, That the said inspector or his deputy, at the time of starting pot or pearl-ashes for inspection, shall weigh the cask or casks and mark the weight with a marking iron on each head thereof.

Inspectors to
search vessels

And be it further enacted, That every such inspector shall have full power and authority, by virtue of this act, and without further or other warrant, to enter on board any ship or vessel whatsoever, lying and being in the harbor where such inspector is authorized to inspect pot or pearl-ashes shipped or shipping on board any such vessel for exportation from this State, and if such inspector shall on search, discover any cask or casks of pot or pearl-ashes not branded as before directed, the person or persons so shipping or having shipped the same, shall forfeit all and every such cask or casks of pot and pearl-ashes so shipped or shipping and not branded in the manner herein before directed. And such inspector or his deputy shall, and may seize and carry away and secure the same for trial, and require necessary aid for that purpose, which it shall be the duty of every person required to give, on pain of forfeiting the sum of forty shillings for his refusal or neglect. And the master or commander of any such vessel, who shall receive on board, any such cask or casks of pot or pearl-ashes not branded as aforesaid, shall forfeit the sum of five pounds for each cask so received.

And if any master of any ship or vessel, or any of his servants or seamen, shall obstruct or hinder the said inspector in making search as aforesaid, every person

person so offending, shall forfeit, for each offence, the sum of one hundred pounds.

And be it further enacted, That if any inspector of pot or pearl-ashes (according to the duties of this act) shall, on application made for the examination of any pot or pearl-ashes aforesaid, unreasonably refuse, neglect or delay to proceed to such examination and inspection, for the space of three hours after such application so made to him, the inspector so refusing, neglecting or delaying to make such examination or inspection, shall, for such offence, forfeit the sum of twenty shillings to any person who shall sue for the same.

Penalty on inspectors.

And be it further enacted, That if any person shall brand any cask of pot or pearl-ashes manufactured by himself, with the name of any other person than his own, or shall brand any such cask manufactured by another person with his own name, or shall counterfeit any brand belonging to, or proper to be used by the said inspector, or any of his deputies, or shall impress or brand any cask of pot or pearl-ashes with any brand or brands of such inspectors, or with any counterfeited as aforesaid, he shall forfeit and pay for each offence, the sum of fifty pounds.

Penalty for counterfeiting brands.

And be it further enacted, That if any person shall empty any cask or casks of pot or pearl-ashes, inspected and branded as by this act is required, and put in any other pot or pearl-ashes for sale or exportation, without first cutting out the said brand marks, the person or persons so offending, shall for each cask forfeit and pay the sum of fifty pounds.

Penalty for shifting the contents of a cask.

And be it further enacted, That every manufacturer of pot and pearl-ashes within this State, shall brand each cask containing the same, with the initial letter of his christian name, and his surname at full length, with the name of the town where the same shall be manufactured, before the same shall be removed from the manufactory, under the penalty of five shillings for each cask so removed without being previously branded as aforesaid.

Casks to be branded with the manufacturer's name.

And be it further enacted, That there shall be an inspector of pot and pearl-ashes for this State, who shall be well skilled in the knowledge and properties of the same, to be appointed by the president, by and

Inspector to be appointed

and with the advice and consent of the council, and to be by them removeable at pleasure, and who, before he shall enter upon the duties of his office, shall give bond with sufficient sureties to the treasurer of this State, in the penal sum of one thousand pounds for the faithful discharge of his duty, and shall also be sworn faithfully to perform the same. And such inspector shall have power, when so qualified to appoint, and shall appoint so many deputy inspectors as are needful, as he shall judge necessary, for whom he shall be answerable, and shall take bonds from them with sufficient surety or sureties, and they shall also be sworn to the faithful discharge of their duty. And the said inspector shall not be entitled to receive from any deputy he may appoint, more than one penny for each hundred weight of pot or pearl-ashes such deputy may inspect agreeably to this act.

Fines—how
to be disposed
of.

And be it further enacted, That all fines and forfeitures mentioned in this act, under the sum of twenty pounds, shall be sued for and recovered by any person to his own use; but if the sum shall amount to twenty pounds and upwards, then one half to the use of the person suing, the other to the use of this State: The actions to be commenced in any court proper to try the same. And all casks of pot and pearl-ashes seized as aforesaid, may be prosecuted to condemnation by the officer seizing the same, by libel in the superior court of judicature in the county where the same is seized, and after condemnation the same shall be sold at public vendue, by the sheriff, and after the payment of all charges, one half of the remainder shall be paid by him into the treasury of this State, and the other half to the officer who seized such pot or pearl-ashes.

Repealing
clause.

And be it further enacted, That all former laws respecting the inspection and assay of pot and pearl-ashes, so far as they relate to the same, be, and hereby are repealed.

This act passed December 28, 1791.

Passed June
19, 1793.

AN ACT to alter and amend an act passed the twenty-eighth day of December, Anno Domini, 1791, entitled, "An act for the inspection of pot and pearl-ashes."

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WHEREAS the said act is found insufficient to answer Preamble.
the end thereby intended :

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That His Excellency the Governor of said State for the time being, by and with the advice of Council, be, and he hereby is authorized and empowered to appoint one inspector of pot and pearl-ashes in Durham, one in Dover, and one in Concord, and such other inspectors in said State as he shall think necessary ; and each inspector so appointed shall give bonds to the treasurer of said State, in a sufficient sum for the faithful performance of his duty.

Governor and council to appoint inspectors.

And be it further enacted, That any citizen of this State shall have liberty to export by water, without inspection, pot or pearl-ashes to any port within the United States of America, he or they giving bonds to some one of said inspectors, in a reasonable sum, that the same shall be landed in some port within the said States, and that the said pot or pearl-ashes shall not by him or them be shipped for any foreign market until the same shall be inspected.

Liberty to export without inspection.

And be it further enacted, That each inspector that shall be appointed by His Excellency the Governor, with advice of council, shall have and receive the same fees for inspection as mentioned in the former act.

Inspectors fees.

And be it further enacted, That it shall be the duty of each and every person transporting pot or pearl-ashes out of this State without inspection, to produce to the inspector to whom he gave bonds within six months from the date of his said bonds, a certificate from the proper officer in some one of the United States, that said pot or pearl-ashes transported as aforesaid has been duly inspected.

Certificates to be produced.

This act passed June 19, 1793.

AN ACT to regulate the exportation of beef and pork.

Passed June 16, 1791.

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the last day of September next, no barrell'd beef

Beef and pork to be surveyed for exportation.

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Quantity &
quality of
beef to be
put in a bbl.

beef or pork shall be shipped or exported out of this State, but such as has been surveyed and found to be good.

And be it further enacted, That the president, by and with the advice and consent of the council, be, and hereby is empowered and directed to appoint one or more suitable person or persons to be searchers and packers of barrelled beef and pork, in all such towns within this State where such officers in their opinion are necessary, who shall be sworn to the faithful execution of their trust, whose duty it shall be to pack and search all the beef and pork packed in the same town, designed for exportation—and that from and after the said last day of September, every barrel of beef salted for exportation shall contain at least two hundred pounds weight of beef, without any hocks, consisting of a full proportion of the best part of each quarter respectively, and also without having any of the best pieces culled out; and that there be four ounces of salt petre, and good salt in each cask sufficient to preserve the beef or pork from damage, to any part or place to which it is designed to be shipped, to be packed in good sound full bound casks, made of well seasoned wood, clear of sap.

Of pork.

And be it further enacted, That from and after the said last day of September, every barrel of pork salted for sale or exportation, shall contain at least two hundred pounds weight of pork, consisting of a due proportion of the best as well as the poorest part of each hog, without having any of the best parts culled out, and that each barrel shall contain not more than three half heads and six legs, to be packed in good sound full bound casks, clear of sap.

Searchers &
packers duty

And be it further enacted, That in every town where such beef or pork are packed up for exportation, the searcher and packer of such town where they are to be shipped, shall previously thereto, properly pack all barrelled pork or beef, and it shall be his business to see that the beef or pork in each barrel or half barrel, be of a quality equal to the average of the beef or pork to be packed, and that the best be not left out, and that the beef or pork in each barrel shall weigh two hundred pounds weight without hocks,

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hocks, and that the casks be made of good and proper well seasoned wood, and full bound. And that all the casks so packed, searched, examined and approved, the said packer shall brand or imprint with a burning iron the following brand or mark, N. Hamp. with his surname at large and the letter P. at the end thereof, denoting that the same is merchantable and in good order for exportation: And all such other provisions, as said packer shall find wholesome and useful, though for its quality it be not merchantable, he shall cause to be well packed and salted in manner aforesaid, and the same branded and marked in manner aforesaid, with the word refuse in addition thereto, for which he shall receive from the owner six pence, for each cask packed and marked as aforesaid.

And be it further enacted, That if any cooper, packer or other person, shall shift any beef or pork either on board any ship or vessel, or on shore, after the same has been so branded, stamped or marked by the packer, or take out any part thereof, and export the same, or a new brand, imprint, or mark the casks whereinto such provisions are shifted, all persons acting, ordering or assisting therein, and being thereof convicted, shall forfeit and pay a sum not exceeding twenty pounds, nor less than three pounds, and if any person or persons other than the proper officer, shall presume to mark, stamp or brand any cask of beef or pork, with the stamping instrument belonging to such officer, or other instrument made in imitation thereof, such person or persons on conviction thereof, shall forfeit and pay a sum not more than twenty pounds, nor less than three pounds for each cask so marked, stamped or branded, to be sued for and recovered in any court of record in this State proper to try the same; and the several packers of beef and pork, who may hereafter be appointed within this State, are hereby directed to govern themselves accordingly.

And be it further enacted, That if any person or persons from and after the said last day of September, shall ship or export any salted beef or pork, not containing the quantity, and packed, imprinted or branded in manner aforesaid, he shall forfeit the same, and pay

Penalty for shifting marked beef or pork, & for false marking.

Penalty for shipping beef or pork not packed, &c.

Beef and
pork not
packed, &c.
may be seiz-
ed,

pay a fine of forty shillings for each barrel so shipped or exported ; to be sued for and recovered in any court of record within this State proper to try the same, one moiety thereof for the use of the prosecutor, and the other moiety thereof for the use of the town wherein the offence shall have been committed.

And be it further enacted, That it shall and may be lawful for any justice of the peace, upon information given of any barrelled beef or pork being shipped, laden or put on board any ship or other vessel for exportation as aforesaid, not being packed, marked or imprinted as aforesaid, to issue his warrant directed to the sheriff or his deputy or constable, requiring them respectively to go on board any such ship or other vessel and make seizure of any such beef or pork, shipped and not packed and marked as aforesaid, and to secure the same in order for trial, and such officer or officers are respectively empowered and required to execute the same process.

This act passed June 16, 1791.

Passed Dec.
27, 1791.

AN ACT for repealing a clause in an act for regulating the exportation of beef and pork, passed the sixteenth day of June last.

Preamble.

WHEREAS the act above mentioned requires that all barrels made use of for salting beef and pork, shall be clear of sap, which is found to be unnecessary.

Enacting
clause.

BE it therefore enacted by the Senate and House of Representatives in General Court convened, That that clause in the act aforesaid, requiring the casks made use of for salting beef and pork to be clear of sap, be, and it hereby is repealed.

This act passed December 27, 1791.

Passed June
22, 1785.

AN ACT for regulating pilotage in the port of Piscataqua.

Preamble.

WHEREAS frequent and heavy losses have been sustained, and navigation greatly injured, for the want of a well regulated pilotage in the harbor aforesaid :

BE it enacted by the Senate and House of Representatives in General Court convened, That the president

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dent, with advice of council, be, and hereby is empowered and requested, as soon as may be, to appoint a suitable person as a pilot for the harbor aforesaid; and to give the person so appointed, a branch or warrant for the due execution of his office, with power of substitution, in certain cases, to be therein prescribed; and such deputies as the said branch pilot shall depute, shall be by him reported to the president for his approbation.

The President to appoint a pilot.

And be it further enacted by the authority aforesaid, That the pilot and his deputies, appointed as aforesaid, shall before his entering upon the business of his office, take the following oath or affirmation before some justice of the peace:

YOU A. B. do swear, or affirm (as the case may be) that you will, from time to time, truly and faithfully perform the duties of a pilot, for the harbor of Piscataqua, according to your best skill and judgment, agreeably to the law of this State.

Pilot's oath.

So help you GOD.

And the said branch pilot, and his deputies, shall enter into bonds, with sufficient sureties, to the treasurer of this State, in the sum of one thousand pounds each, for the due performance of the trust reposed in them. And the branch pilot, being commissioned and qualified as aforesaid, is hereby empowered and directed, by himself or his deputy, to take charge of any vessel or vessels, drawing nine feet of water, or upwards (coasting and fishing vessels excepted) bound into, or out of the port aforesaid; and shall pilot such vessel or vessels into and out of the port aforesaid, first shewing to the master or masters thereof, his branch, or warrant, and acquainting him or them of his fees.

The Pilots to enter into bonds.

And be it further enacted by the authority aforesaid, That the cruising ground of the pilot, or his deputy, for the port aforesaid, be, and hereby is limited in manner following, viz. beginning from the ragged neck, so called in Rye, to southwest of the harbor aforesaid; from thence, easterly to the middle ground, between the island of the shoals and the harbor's mouth; and as far as the eastermost of the sisters, so called: And the branch pilot, and each of his deputies, shall always keep a suitable boat, in good repair.

Their limits.

And

The president with advice of council to fix the fees.

And be it further enacted by the authority aforesaid, That the president, with advice of council, be, and hereby is empowered and requested to determine and fix the fees of pilotage, according as the circumstances of peace or war may require, and to specify the same in his warrant; and also to transmit the same to the naval officer for the port aforesaid, and to be by him hung up in his office, for public inspection.

Master or owner may pilot his own vessel.

Provided nevertheless, and be it enacted by the authority aforesaid, That any master or owner of a vessel, who chuses to hazard the pilotage of his own vessel out of the harbor aforesaid, shall be at liberty so to do: *Provided also,* That in case the said pilot, or either of his deputies shall go on board any vessel at sea, and which was bound into this harbor, that then the said pilot, or his deputy, shall be entitled to one half the fees specified in his warrant, in case the master or owner declines to employ him, or them; and, on refusal of payment may sue for, and recover the same.

Proviso:

Provided also, and be it further enacted by the authority aforesaid, That if any vessel shall be within the light-house of the harbor aforesaid, before any pilot shall go on board, and the master of such vessel shall then decline taking a pilot, he shall be exempted from the fees of pilotage in the said port.

The pilot to make good damages &c.

And be it further enacted by the authority aforesaid, That if any vessel, while under the charge and direction of the branch or warrant pilot, or his deputy, shall be lost, cast away, or run aground, through the unskillfulness or neglect of such branch or warrant pilot, or his deputy, then, and in that case, such branch or warrant pilot, or his deputy or deputies shall be liable to pay the just value of the vessel and her cargo, or any proportionable damage which may be sustained thereby; to be sued for and recovered by the owner or owners, insurer or insurers thereof, in any court proper to try the same.

And to the intent that a suitable check may be had upon the pilot aforesaid, and that he may be excited to due vigilance in the discharge of the duties assigned him:

Be it enacted by the authority aforesaid, That the president

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president and council, be, and they are hereby empowered to hear and determine all complaints exhibited against the said pilot or his deputies, or either of them, for mal-conduct in the premises; and at their discretion to put out or suspend any or either of them, and to appoint others in their room, laying the reasons therefor before the general court, at the next session after such suspension or removal.

The president and council to hear complaints and determine, &c.

This act passed June 22, 1785.

AN ACT to prevent obstructions and impediments to navigation in the river Piscataqua, and harbor of Portsmouth. Passed June 16, 1792.

WHEREAS masters and owners of vessels, or persons belonging to them, boatmen and others, have frequently thrown out ballast and other annoyances from vessels and boats, as well as from the shore or bank, into said river and harbor, tending to fill up or lessen the channel, and obstruct the passage near the wharves, to the detriment and obstruction of navigation:

Preamble.

For remedy whereof—

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the first day of August next, no refuse whatever shall be cast or thrown into said harbor or said river within the limits hereafter mentioned, excepting such only as being naturally carried off by the current, does not tend to form or promote the obstructions aforesaid.

No refuse whatever to be thrown into the river from

And if any person shall thereafter unlade, cast or throw out of any ship, vessel or boat of any kind, or from the shore or bank, or from any wharf, any ballast, rubbish, gravel, earth, stones, dirt, ashes, or filth into said harbor, or into said river, within the following limits, viz. From the light-house at the entrance of said harbor, up said river to boiling rock, so called, or shall be aiding or assisting therein, every such person shall, for every such offence, forfeit and pay a sum not less than twenty, nor more than forty shillings, to be recovered by action, complaint or information before any justice of the peace, or court of record proper to try the same, the one half of which sum shall

the light house to boiling rock.

shall be to the complainant, and the other half to the prosecutor.

Harbor master to be chosen.

And the town of Portsmouth shall annually at the meeting for the choice of town officers, or at any other legal town meeting, choose a discreet person to oversee and superintend said harbor and said river within the limits aforesaid, whose peculiar business and duty it shall be, to see that this act be observed, and to prosecute any breaches thereof, which officer shall be called the harbor-master.

This act passed June 16, 1792.

Passed Nov. 25, 1778.

AN ACT for the better preservation and increase of deer within this State.

Preamble.

WHEREAS the killing of deer at unseasonable times of the year hath been found very much to the prejudice of this State; great numbers thereof having been hunted and destroyed in deep snows, when they are very poor and big with young, the flesh and skins of very little value, and the increase thereof greatly hindered:

Penalty for killing deer out of season.

BE it therefore enacted by the Council and House of Representatives in General Court assembled, and by the authority of the same, That no person or persons whatsoever within this State, from and after the last day of December in this present year, 'till the first day of August, in the year of our Lord one thousand seven hundred and seventy-nine, and so from the last day of December, to the first day of August following, annually forever hereafter, shall in any ways whatsoever, kill any buck, doe or fawn, on pain that such person or persons shall forfeit the sum of fifteen pounds, the one half thereof to be for the use of this State, and the other half to be for the use of the person who shall inform of, and sue for the same; and that any two of the justices of the peace within the county where such offence shall be committed, be, and hereby are empowered to hear and determine all suits that shall arise relating thereto. And if any person or persons offending as aforesaid shall not have wherewithal to pay his or their fine or fines, he or they shall work thirty days for the first

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first offence, and fifty days for every offence afterwards, as shall be determined by any two justices of the peace within the county where the offence shall be committed, who are hereby authorized and empowered to hear and determine the same; and the wages and earnings of the offender shall be employed to and for the uses and ends aforesaid.

And if any venison, skin or skins of any buck, doe or fawn, newly killed, shall at any time in any of the aforesaid months, wherein by this act they are prohibited to be killed, be found with, or in possession of any person or persons whatsoever, such person or persons shall be held and accounted in law to be guilty of killing deer contrary to the intent of this act, as fully as if it were proved against such person by sufficient witness, *viva voce*; except such person do bring forth and make proof who was the person or persons that sold or killed the same: Provided nevertheless, that it shall not extend to tame deer, or those kept in enclosures.

Proof.

And be it further enacted by the authority aforesaid, That every town and parish within this State, at their annual meeting, shall make choice of two proper persons to inspect and search any suspected places or houses where any such deer, or deer kind aforesaid, may be killed or hid; and that they shall be sworn to the faithful discharge of their said office.

Inspectors:

This act passed November 25, 1778.

AN ACT to promote the increase of sheep in this State.

Approved
Feb. 22,
1794.

WHEREAS the increase of sheep would be of very great utility to the inhabitants of this State; but by reason of many persons suffering their rams to run at large, at all times of the year, the number of sheep, by the yeaning of lambs at an unsuitable season, is rather diminished than increased;

Preamble.

For remedy whereof—

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the passing of this act, no ram shall be suffered to go at large within this State, from the tenth day of

Rams not
to go at
large.

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August

August to the fifteenth day of November annually, on the penalty of twenty shillings for each ram, as often as the same shall be found out of the owner's enclosure between the days aforesaid, which penalty shall be paid by the owner of the ram so found, to the person or persons who shall impound the same, which any person is hereby as fully authorized to do, as he may, by the present laws, impound beasts taken damage feasant. And every person who shall impound any ram found as aforesaid, shall immediately give personal notice thereof, to the owner or owners of such ram or rams, if known, and if unknown, the person or persons impounding such ram, shall post up an advertisement in writing, particularly describing him, and the time and place of his being impounded, at two or more public places in the town, parish or place where such ram or rams shall be so impounded, for the space of five days; and if no owner shall appear to claim such ram or rams within that time; or appearing, shall refuse to pay the said penalty, with all legal incidental charges, then the said ram or rams shall become forfeited to the person or persons impounding the same, to be by him or them, appropriated to his or their own use.

Approved February 22, 1794.

Passed Feb.
10, 1791.

Heads of
wolves to be
produced,
and proof
made of
killing, &c.

AN ACT allowing a certain premium for killing wolves.

BE it enacted by the Senate and House of Representatives in General Court convened, That if any person shall kill any wolf or wolf's whelp within this State, and shall bring the head of such wolf or wolf's whelp to the selectmen of the town or place in which the same was killed, and if there be no selectmen in the place where the same was killed, then to the selectmen of the town or place next to the place where the same was killed, and shall prove to the satisfaction of the said selectmen, that the wolf or wolf's whelp, the head of which he hath brought to them aforesaid, was killed by him, or by his means, or by any other person whose agent he is, the said selectmen shall cut off the ears from the head so brought to them

them as aforesaid, and shall otherwise disfigure it so that it may never be produced for the like purpose again ; and the said selectmen shall give the person so producing the head as aforesaid, a receipt for the same, and the person receiving the same receipt, on producing it to the treasurer of this State, shall receive out of the treasury of this State, the sum of six pounds for every wolf killed as aforesaid ; and the sum of three pounds for every wolf's whelp killed as aforesaid.

This act passed February 10, 1791.

Premium,
and how to
be paid.

AN ACT to encourage the manufacturing of linseed oil within this State.

Passed June
21, 1786.

WHEREAS the manufacturing of oil from flax-seed, within this State, will furnish employment for poor persons, have a happy influence on the balance of trade, and greatly contribute to the wealth of the good subjects of this State :

Preamble.

Therefore, to encourage the same,

BE it enacted by the Senate and House of Representatives in General Court convened, That if any person or persons shall, within two years, erect and set up, or if already set up, shall continue a mill for the manufacturing of oil from flax-seed, such mill or building shall not be subject to any tax for ten years after it shall have been set up.

Mills, &c.
not subject
to any tax
for ten
years.

And be it further enacted, That it shall be lawful for all and every person or persons, native or foreigner, to ship, laid, enter, transport, or export out of this State, into any part of the world, in amity with the United States, linseed oil, free from any custom or imposition whatever.

Any person
may ship lin-
seed oil free
from duty.

Provided always, and it is the true intent and meaning of this act, that such mills as are already set up, shall be exempted from taxation for ten years from the passing of this act, and such as may be set up within two years, as aforesaid, shall be exempted for the term of ten years next after the time of their being set up and erected.

Proviso.

This act passed June 21, 1786.

AN

Passed Sept.
22, 1787.

Preamble.

Slitting
mills, &c.
exempted
from taxes.

Owners of
slitting mills
&c. to have
an abate-
ment of tax-
es.

AN ACT to encourage the erecting of mills for slit-
ting, rolling and plating iron, and to encourage
and promote the manufacturing of nails within
this State.

*WHEREAS the slit-ting, rolling and plating of iron,
and making nails within this State, would prevent
large sums of money being drawn out of the same
to foreign countries :*

Therefore,

BE it enacted by the Senate and House of Representa-
tives in General Court convened, That mills, forges
and engines for slit-ting, rolling or plating iron, with
the necessary buildings appertaining to them, and
nail-houses or shops erected and properly calculated
for the business of making nails, which shall be set
up, erected and completed for the business for which
they, or either of them may be designed, in any part
of this State, within three years from the passing of
this act, such mills, buildings, forges, and engines,
and every of them, shall be exempted from all taxes,
duties and impositions whatever, for the term of ten
years, from the time of their being set up and com-
pleted as aforesaid.

*Provided always, That the benefit of this act, shall
not be extended to any or either of them, for longer
time than the same shall, in the judgment of the se-
lectmen of the town, parish, or place, where the same
is situate, be usually and properly occupied and im-
proved in the business for which it was erected, con-
structed and set up.*

*And be it further enacted, That the owner or own-
ers of any slit-ting-mill, or forge for rolling or plating
iron (set up and erected within three years as afore-
said) shall have an abatement annually, for the term
of seven years, in his, her, or their taxes, for as many
poll taxes as he or they shall usually and usefully em-
ploy of proper workmen, to the satisfaction of said
selectmen, in slit-ting, rolling or plating of iron.*

*And be it further enacted, That if any person or
persons, shall within one year from the passing of this
act, erect and finish any mill for slit-ting, rolling and
plating iron, which shall be in the judgment of two
of the justices of the superior court, properly con-
structed for the business for which it was erected, and*

shall

shall be so certified by said justices, and that it is the first of the kind in their judgment completed in this State, the person or persons so constructing such mill within one year, being the first of that kind erected, set up and finished in this State, and producing such certificate thereof to the president and council, the president with advice of council, is hereby empowered to give an order upon the treasurer of this State, for one hundred pounds, to be paid to such person or persons so first constructing and finishing such mill within the time aforesaid. And the same, together with the privileges on which it may be constructed, shall be exempted from all and every kind of duty, tax or imposition, so long as the same shall be occupied and improved in the business aforesaid.

A premium of £.100 for the first slitting mill erected.

And to promote the business of nail making :—

Be it further enacted, That the justices of the courts of general sessions of the peace, in the several counties in this State, are hereby directed, as soon as may be, after the passing of this act, to enlarge the limits of the prison yards in their respective counties, if necessary, not exceeding one hundred yards, and at the expense of their respective counties, to cause proper nail houses to be erected therein with at least two forges in each nail house, and furnish the tools and implements necessary for the making of nails; and to provide from time to time, as they may find necessary, at the expense of their respective counties, coals and nail rods, to employ prisoners in making nails.

The limits of prison yards to be enlarged.

And be it further enacted, That the justices of the superior court of judicature and justices of the court of general sessions of the peace, and justices of the peace respectively, may in all cases where any person shall be convicted before them of any crime, where by law such person so convicted would be liable to make restitution to the party aggrieved, pay a fine or damages, with costs of prosecution, and stand committed 'till sentence be performed, the said justices of the superior court, justices of the general sessions of the peace, or any justice before whom the trial may be, may at their discretion, either order the person so convicted to stand committed 'till sentence be performed, or to work at the business of nail making.

Persons convicted of a crime to work at nail making.

king 'till sentence be performed—saving always to the party convicted, the right of appeal as the law directs.

And be it further enacted, That when any person shall be sentenced to work at the business of nail making, in the prison yard as aforesaid, he shall be kept at labor until he shall have paid the fine, damages or costs, for which he is sentenced, and the prison fees and expenses, at the rate of three shillings per day, always allowing the making of one thousand of ten penny nails as one day's work, and so *pro rata*.

And be it further enacted, That the under prison keeper shall have the same authority over persons sentenced to work as aforesaid, as masters of houses of correction have by law, over persons committed to their care; may use every proper method for preventing desertion by day, and shall confine them in prison by night.

And in case of the escape of any such person, if he shall be again apprehended, the next court of quarter sessions in that county, is hereby empowered and directed to sentence him to serve double the time he had to serve at the time of his desertion, and so *ties quoties*.

And be it further enacted, That every under prison keeper, shall at the time of his first receiving nail rods from the county as aforesaid, be sworn to render a true and faithful account to the quarter sessions, at every session, of the quantity of coals and the number and weight of rods, which he then has, or may afterward receive from the county; and the quantity of nails made therefrom, and the number made by each person, and shall at every session render his account thereof on oath, and file a copy with the clerk of said court, and shall deliver over the nails made as aforesaid agreeably to the orders which he may from time to time receive from the said court of quarter sessions.

And be it further enacted, That from and after the first day of July next, every person appointed under prison keeper in any county in this State, shall before he enters upon the duties of his said office, be sworn to render a true and faithful account of all coals and rods which he may receive, and nails made under his

Persons sentenced, &c. to be allowed 3^d per day.

Prison keepers to have the same authority as, &c.

In case of an escape and again apprehended to serve double time.

Prison keeper receiving nail rods to be sworn, &c.

Prison keeper receiving coals & rods to be sworn.

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direction as aforesaid, during his continuance in office, and said prison keeper shall be allowed ten per cent out of all the nails made under his direction, by prisoners sentenced to nail making as aforesaid: And shall have liberty to discharge any prisoner when he shall have made nails sufficient to satisfy the demands against him, at the rate of three shillings per thousand for ten penny nails as aforesaid, though the time for which he stood committed may not be expired, and shall hold and keep to labor every such prisoner until he shall have made nails sufficient to satisfy the sums which he may be sentenced to pay, unless otherways discharged.

And be it further enacted, That the respective courts of quarter sessions, shall at every session, fix the price of making every other kind of nails, as near as may be, to the above proportion of three shillings for one thousand of ten penny nails, and shall fix and ascertain the price of nails for the ensuing quarter. And the prison keeper may at that rate, deliver out nails to any person or persons to whom the said prisoners, or either of them is sentenced to make restitution, by order of the court of quarter sessions, in satisfaction of their demand, always taking the receipt of such person or persons upon the order aforesaid.

And be it further enacted, That when there shall not be prisoners of the foregoing description in any prison in either of the counties aforesaid, sufficient to employ the forges in the nail house appertaining thereto, the respective under prison keepers may with the assent of any two of the justices, *quorum unus*, employ in the business of nail making for such time as they may approve, prisoners confined for debt, who shall have given bond for the liberty of the yard, and shall be desirous of being so employed, allowing them one fourth part of all the nails which they may fabricate, of which said prison keeper is to render an account on oath to the quarter sessions as aforesaid, and shall be entitled to five per cent of the residue of said nails for his trouble, and the remainder shall be kept by him for the use of the county, and delivered out by order of the court of sessions.

This act passed September 22, 1787.

AN

May discharge prisoners who have made their allowance.

Qr. sessions to fix the prices of other kind of nails.

Prisoners for debt may be employed to make nails.

Passed Dec.
22, 1792.

Preamble.

AN ACT to encourage the manufacture of malt-liquors.

WHEREAS the manufacture of malt-liquors in this State, will tend to promote agriculture, diminish the use of ardent spirits, and preserve the morals and health of the people :

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That if any person or persons shall hereafter within this State erect, or if already erected, shall continue any buildings or other works for the manufacture of malt and malt-liquors, or if any person or persons shall hereafter erect, or having already erected, shall continue any buildings or other works for brewing malt-liquors, and shall actually use and occupy them for the aforesaid purposes, all such buildings and works, together with the stock used therein, and the yards adjacent to, and occupied for the aforesaid purposes, shall be exempted from all taxes of every kind and nature that may be assessed under the authority of this State. And the owner or owners of such works and buildings, while said works or buildings are used for the purposes aforesaid, shall be exempted from all poll-taxes ; and shall also have an abatement annually in his, her or their taxes, for as many poll-taxes as he she or they shall in the opinion of the selectmen of the town where such works are, or shall be erected, usually employ of apprentices or workmen in said manufactories liable to pay poll-taxes.

Provided, That this act shall continue and be in force for the term of ten years from the passing thereof and no longer.

This act passed December 22, 1792.

Passed Feb.
3, 1789.

Preamble.

AN ACT to encourage the erecting of proper buildings for carrying on the manufacture of sail cloth, or duck, within this State.

WHEREAS the manufacture of duck within this State would prevent large sums of money being drawn out of the same to foreign countries :

Therefore,

Buildings
exempted
from all
state taxes—
Also

An abate-
ment of poll-
taxes.

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That buildings proper for the manufacture of sail cloth, or duck, which shall be set up, erected and completed for the purpose aforesaid, in any part of this State, within three years from the passing of this act, shall be exempted from all taxes, duties, and impositions whatever, for the term of ten years from the time of their being set up and completed as aforesaid.

Buildings, exempted from taxes for a limited time,

Provided always, That the benefit of this act shall not be extended to any or either of them, for a longer time than the same shall, in the judgment of the selectmen of the town or parish, or place where the same is situate, be usually and properly occupied and improved in the business for which it was erected, constructed and set up.

must be properly occupied in the business.

And be it further enacted, That the owner or owners of such manufacture for making duck (set up and erected within three years as aforesaid) shall have an abatement annually, for the term of seven years, in his, her, or their taxes, for as many poll-taxes as he, she, or they shall usually and usefully employ of proper workmen, to the satisfaction of said selectmen, in making sail-cloth or duck.

Abatement.

And be it further enacted, That if any person or persons shall, within one year from the passing this act, erect and finish any such manufacture for making duck as aforesaid, which shall be in the judgment of two of the judges of the superior court properly constructed for the business for which it was erected, and shall be so certified by said judges, and that it is the first of the kind, in their judgment, completed in this State, so far as to make duck, the person or persons so constructing the same within one year, being the first of that kind erected, set up and finished, so as to make duck in this State, and producing such certificate thereof to the president and council, the president, with advice of council, is hereby empowered to give an order upon the treasurer of this State for fifty pounds, to be paid to such person or persons so first constructing and finishing such manufacture as aforesaid within one year: And the same, together with the privileges on which it may be constructed, shall

Premium.

A A a

be

Fish in Ammonusuck river to be preserved.

be exempted from all and every kind of duty, tax or imposition, so long as the same shall be occupied and improved in the business aforesaid.

This act passed February 3, 1789.

Passed June
22, 1786.

AN ACT to prevent the destruction of salmon in Ammonusuck river.

Preamble.

WHEREAS the salmon in said river might be of great use to the public, if properly preserved :

Therefore,

Penalty for
catching, &c.

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after fifteen days from the passing this act, if any person or persons shall catch, kill or destroy any salmon in the river aforesaid, within one hundred rods of the mouth thereof, or in the river Connecticut, within one hundred rods of the mouth or entry of said Ammonusuck river into the river Connecticut, he shall forfeit and pay the sum of forty shillings for each offence, to be recovered in any court of record, or any other court proper to try the same ; one half of said sum to the use of the person or persons who shall sue for and recover the same ; and the other half for the use of the county where the offence may be committed.

Fine for set-
ting a net.

And be it further enacted by the authority aforesaid That if any person or persons, shall set any gill-net in said river Ammonusuck, in any part thereof, or in Connecticut river, within one hundred rods of the mouth of said Ammonusuck river, he or they shall forfeit and pay the sum of forty shillings for each offence, to be recovered and applied as aforesaid ; and the gill-net that may be set as aforesaid, shall be forfeited, and the benefits arising therefrom shall be applied for the use of the poor of the town where the offence may be committed.

Mill-dams
not to be
built.

And be it further enacted by the authority aforesaid That if any person or persons, shall erect any mill-dam or mill-dams across said river Ammonusuck, or continue any already erected, and shall not make, or leave proper passage for said salmon (by the judgment of the selectmen where the same may be erected) he

or

or they shall forfeit and pay the sum of ten pounds, to be recovered and applied as aforesaid, in the first part of this act, and such mill-dam shall be demolished.

And be it further enacted by the authority aforesaid, That if any person or persons shall catch, kill, or destroy any of the salmon in the river Ammonusuck, aforesaid, within fifty rods of any mill-dam in said river, he or they shall forfeit and pay the sum of forty shillings for each offence, to be recovered and applied as aforesaid.

And be it further enacted by the authority aforesaid, That if any person or persons, shall erect any ware in said river, and thereby obstruct the passage of said salmon, he or they thus offending, shall forfeit and pay the sum of ten pounds for each offence, to be recovered and applied as aforesaid.

And be it further enacted by the authority aforesaid, That the several towns laying on, or adjoining said Ammonusuck river, are hereby empowered, and directed to choose one or more proper person or persons, at their annual March meetings, whose duty it shall be to see this act is put in execution.

This act passed June 22, 1786.

AN ACT to preserve the fish in Piscataqua river, and the branches thereof. Passed Jan. 20, 1789.

WHEREAS the fishing in Piscataqua river, and in the harbor near the mouth of said river, with setting lines and seines, hath already in a great measure, Preamble. obstructed and turned the course of the cod fish in said river, and the fishing for bass and blue fish in winter hath almost destroyed the bass and blue fish in said river, and the branches thereof, so that these useful fisheries are in imminent danger of being lost, unless prevented by an act of the General-Court : —

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the making of this act, no person shall be allowed to fish in the said river, or harbor, or any of the branches thereof within this State, where the tide ebbs and flows, with any seine or setting line, for Seines or setting lines to be used only for catching smelts and shad.

any

Penalty.

any fish whatsoever, excepting smelts and shad. And no person shall, by any way or means whatsoever, catch, kill or destroy any bass or blue fish in said river, or the branches aforesaid, from the first of December to the first of April annually, on pain that any and every person offending in any of the particulars aforesaid, shall forfeit and pay for every such offence the sum of two pounds, to be recovered by action or information, before any justice of the peace, within the county where the offence may be committed, one half to the use of the State, the other half to the informer. And any person or persons are hereby authorized to destroy any seine or setting lines, or nets set for fishing in said river or the branches thereof, excepting those used for catching smelts and shad, and in case of being sued therefor, may plead the general issue, and give the special matter in evidence, and shall recover double costs. And whosoever shall knowingly sell, or buy any bass, blue fish, or cod fish taken contrary to this act, shall forfeit ten shillings, to be recovered by action or information, before a justice of the peace, for the use of the informer, allowing an appeal from any such judgment as the law in other cases directs.

This act passed January 20, 1789.

Approved,
Jan. 9, 1795.

AN ACT for the preservation of salmon and shad in Connecticut river.

Time prohibited from
catching or
killing fish.

BE it enacted by the Senate and House of Representatives in General Court convened, That after the passing of this act, if any person shall, between the first day of April and the first day of July, in any year, catch, kill or destroy any salmon or shad in any part of Connecticut river, within this State, or in any stream within this State, running into said river; or shall use any seine, net, spear or stab, or any kind of machine or instrument, for the purpose of catching salmon or shad, within the limits aforesaid, at any other time than between the rising of the sun on Tuesday morning, and the rising of the sun on Saturday morning, in the same week; such person shall for every such offence forfeit the sum of ten dollars, to be recovered

Penalty.

recovered

recovered with costs of suit, in an action of debt, by any person who shall sue for the same before any justice of the peace, within the county where such offence shall be committed; one half of said sum for the use of the person who shall sue therefor, and the other half for the use of the said county.

Forfeiture
how to be
recovered.

And be it further enacted, That if any seine, net, spear or stab, or any kind of machine, or instrument made or used for the purpose of catching salmon or shad, at any other time than that which is by this act allowed for catching salmon and shad in said river, shall be found in any part of said river, within this State, or in any of the streams aforesaid, it shall be forfeited to the use and become the property of him or them who shall find the same and remove it from said river: and if any pot for the purpose of catching fish shall at any time be found within the limits aforesaid, it shall be forfeited and appropriated in manner above mentioned. And if any person or persons shall between the first day of April, and the first day of July, in any year, set, draw, or use within the limits aforesaid, any seine, or net, more than twenty rods in length, for the purpose of catching salmon or shad, such person or persons, shall, for every such offence, forfeit the sum of ten dollars, to be sued for, recovered and appropriated in the same manner as the forfeitures for catching salmon and shad.

Nets, &c. to
be forfeited.

And be it further enacted, That it shall be the duty of every town within this State, bounding on the State of Vermont, to choose every year, at their annual town meeting, a fish inspector, whose duty it shall be to inspect said river, and to take and remove therefrom every machine and instrument for catching salmon or shad, which shall therein be found at any time, other than that by which it is lawful by this act, to catch salmon and shad in said river; and each of the said inspectors shall be sworn to the faithful performance of his duty, and be hereby authorized to command such assistance as shall be necessary to enable him to remove from said river every machine and instrument which shall be forfeited by this act; and every person who shall be commanded by any one of the inspectors aforesaid to assist, and shall actually assist him in taking and removing from said river any of the machines,

Fish inspec-
tor to be ap-
pointed.

Inspectors to
be sworn.

Authorized
to command
assistance to
remove nets,
&c.

Preservation of fish in Merrimac river.

Proviso.

machines, or instruments forfeited as aforesaid, shall share equally with such inspector in the property of the same. *Provided nevertheless*, That the duty and authority of each of said inspectors shall be confined within the limits of the town wherein he shall be chosen.

Former acts repealed.

And be it further enacted, That all acts and laws heretofore made relative to catching salmon or shad in Connecticut river, be, and they hereby are repealed.

Approved January 9, 1795.

Passed June 18, 1790.

AN ACT to prevent the destruction of salmon, shad and alewives in Merrimac river, and for repealing all the laws heretofore made for that purpose.

Penalty for catching fish on certain days.

BE it enacted by the Senate and House of Representatives in General Court convened, That no person after the passing of this act, shall catch, kill, or destroy any salmon, shad or alewives in any part of Merrimac river within this State, or in any of the waters falling thereinto, at any time from sun rising on any Saturday, to sun rising on every Wednesday next following, on penalty of forfeiting for each fish so caught, killed, or destroyed, a sum not exceeding forty shillings, nor less than five, at the discretion of the court or the justice before whom the trial for such offence may be.

For obstructions on Merrimac river.

And be it further enacted, That no person from the first day of May, to the last day of October, annually shall erect or build any mill-dam, or other obstruction more than half way across the said river Merrimac or Winneposockee, on penalty of forfeiting the sum of ten pounds for every such offence.

And if any person shall continue, during the time aforesaid, any dam or other obstruction erected, or hereafter to be erected, contrary to this act, he shall forfeit and pay for every week the same shall be continued within the term aforesaid, the sum of ten pounds, and in that proportion for a longer or shorter time.

And the person so erecting or continuing such dam, or other obstruction, contrary to this act, shall on indictment

indictment and conviction for either of said offences, be fined a sum not exceeding ten pounds, nor less than three, at the discretion of the court trying the same, and the court shall order the said dam or other obstruction to be removed.

And be it further enacted, That when any dam or other obstruction shall be built on one side of said river Merrimac or Winneposockee; no person within the term before mentioned, shall erect or continue any dam or other obstruction on the other side of said river Merrimac or Winneposockee, within one hundred yards, either above or below such mill-dam or other obstruction, previously erected, on penalty of forfeiting the sum of ten pounds.

And be it further enacted, That no person from the first day of May to the last day of October, annually, shall erect or build any mill-dam, ware or other obstruction upon or across any of the streams falling into the said river Merrimac, where fish usually pass, or heretofore have passed, so as thereby to prevent the free passage of the fish in said streams; or shall during the term aforesaid continue any mill-dam, ware or other obstruction wheresoever the same may have been, or may hereafter be erected, on penalty of forfeiting the sum of ten pounds for every mill-dam or other obstruction so erected, and the same sum for continuing the same one week, and in that proportion for a longer or shorter time, and the person offending in either of the cases aforesaid, shall, on indictment and conviction be fined the sum of five pounds.

For obstructions in streams falling into Merrimac river.

And the courts shall order the said dam or other obstruction to be removed.

And be it further enacted, That no person shall at any time, or any day, catch, kill, or destroy any salmon, shad or alewives, within twenty yards of any mill-dam or sluice-way in said river, or any of the streams falling into the same, on penalty of forfeiting a sum not exceeding forty shillings, nor less than five, for each fish so caught, killed or destroyed.

For catching fish in certain places.

And be it further enacted, That it shall and may be lawful for any person to convert to his own use, or destroy any seine, net or other implement used in catching fish contrary to this act.

And be it further enacted, That all forfeitures before

Mode of recovery.

fore mentioned, may be recovered in the county where the offence is committed, by action before any justice of the peace not interested, where the sum does not exceed forty shillings, otherwise before the inferior court of common pleas, and shall be one half to the use of the prosecutor, the other half to the use of the town, parish or place where the offence is committed.

Limitation.

And be it further enacted, That all prosecutions for any offences against this act, shall be commenced within six months after the offence shall have been committed, and not afterwards.

Repealing clause.

And be it further enacted, That an act passed February the 6th, A. D. 1789, entitled, "An act to prevent the destruction of salmon, shad and alewives in Merrimac river, and for repealing all laws heretofore made for that purpose," and all the acts therein mentioned, and an additional act passed January the 16th, 1790, be, and hereby are repealed.

Provided nevertheless, That all actions or prosecutions commenced by virtue of any of said acts, may be prosecuted to final judgment and execution in the same way and manner as though the same had not been repealed.

Provided also, That the owners of dams and other obstructions, be allowed until the first day of September next, for the removal of such dams or other obstructions.

This act passed June 18, 1790.

Approved
January 12,
1795.

AN ACT in addition to, and in amendment of an act entitled, "An act to prevent the destruction of salmon, shad and alewives in Merrimac river; and for repealing all the laws heretofore made for that purpose."

Repealing clause.

BE it enacted by the Senate and House of Representatives in General Court convened, That the first clause in said act, which is in the following words "That no person after the passing of this act, shall catch, kill, or destroy any salmon, shad, or alewife in any part of Merrimac river, within this State, or any of the waters falling thereinto, at any time from sun rising

sunrising on any Saturday, to sunrising on every Wednesday next following, on penalty of forfeiting for each fish so caught, killed or destroyed, a sum not exceeding forty shillings, nor less than five, at the discretion of the court, or the justice before whom the trial for such offence may be, be, and hereby is repealed.

And be it further enacted, That one other clause in the same act, which is in the following words, "That it shall, and may be lawful for any person to convert to his own use, or destroy any seine, net, or other implement used in catching fish, contrary to this act," be and is hereby repealed.

Repealing clause.

And be it further enacted, That no person after the passing this act, shall catch, kill, or destroy any salmon, shad, or alewives in any part of Merrimac, Pemigawasset, or Winnepisseokee rivers, within this State, or in any of the waters falling thereinto, at any time from sunrising on any Thursday to sunrising on any Monday next following, on penalty of forfeiting for each fish so caught, killed or destroyed, a sum not exceeding ten dollars, nor less than five, at the discretion of the court or justice before whom the trial for such offence may be.

Time when fish must not be caught.

Penalty:

And be it further enacted, That if any person or persons shall, within the time inhibited by this act, set, use or continue in or upon any of the waters aforesaid, any seine, net, pot, or other implement used for catching or destroying said fish, such seine, net, or implement shall be forfeited to the use of any person who may sue for the same. And it shall and may be lawful for any person to take, remove, or carry away any seine, net, or other implement so found upon the waters aforesaid, and convert the same to his own use.

Seine, &c. to be forfeited.

And be it further enacted, That no person or persons shall, at any time, set or continue any ware, seine, net, or fish pot in any of the rivers or waters aforesaid, where salmon, shad, or alewives have heretofore usually passed, except the said river Merrimac, on penalty of forfeiting twenty dollars for each offence, and for the use of any person who will sue for the same, with cost of prosecution. And it shall be lawful for any person to destroy any ware, seine, net, or fish pot, which shall be set or continued contrary to this act.

No person to set any ware, &c.

Penalty.

Fish wardens
to be chosen.

Penalty for
refusing to
take an oath
of office.

The oath.

Approved
Jan. 15, 1794

Preamble.

Enacting
clause.

And be it further enacted, That each town adjoining Merrimac, Pemigawasset or Winnepisseokee rivers, or on any streams falling thereinto, where salmon, shad, or alewives do, or heretofore have been known to frequent, shall, at their annual meeting choose some suitable persons as fish wardens, not exceeding seven, nor less than three, at the discretion of the town so choosing, whose duty it shall be to see that the laws for the preservation of fish on said rivers, are duly observed; and if any person legally chosen by any of said towns, shall neglect or refuse, after being lawfully notified of his appointment, to take the oath prescribed by this act, or execute the office, he shall forfeit and pay ten dollars to any person who will sue for the same, with cost as aforesaid.

And be it further enacted, That the following shall be the oath to be administered to any person chosen as fish warden: You swear that you will to the best of your ability, see that the laws for the preservation of fish on Merrimac, Pemigawasset and Winnepisseokee rivers, so far as they respect the rivers and waters contiguous to the town of _____, are observed and kept according to the true intent and meaning thereof.

Approved January 12, 1795.

AN ACT to prevent damages being done on salt-marshes in Hampton, Hampton-falls, Seabrook, and South-Hampton.

WHEREAS many owners of salt-marshes within this State have suffered great damage from trespasses committed thereon, by persons clandestinely taking and carrying off from thence, by night, a certain weed (called Flatts weed) for the purpose of manure, which is the natural produce of the marsh, and necessary to preserve and fertilize its native soil, whereby the said marshes are greatly damnified,

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That if any person or persons shall hereafter be found guilty of raking, collecting, or carrying off from any of the said marshes, or flatts in Hampton, Hampton-falls, Seabrook,

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brook, or South-Hampton, any such weed without leave first obtained from the owner or owners thereof, or shall aid and assist therein, every such offender, for every such trespass, shall on conviction thereof, forfeit and pay treble damages to the party or parties injured thereby, and also a sum not exceeding forty shillings, one moiety thereof to the informer, the other to the party or parties injured, which damages and forfeitures shall be recovered by action before any justice of the peace, if the penalty or damage exceed not forty shillings; but if it be above that sum, then before the court of common pleas.

Approved January 15, 1794.

AN ACT for arranging the militia into divisions.

Passed Dec. 27, 1792.

BE it enacted by the Senate and House of Representatives in General Court convened, That the militia of this State be arranged into divisions, brigades and regiments, and numbered; and that each division, brigade and regiment shall take rank according to their number, reckoning the first or lowest number highest in rank, and that each regiment shall be divided into two battalions.

Militia arranged.
Their rank.

And be it further enacted, That the companies in the towns of Portsmouth, Newington and Newcastle, shall form a first battalion—and the companies in the towns of Rye, Greenland and Stratham, shall form a second battalion, which shall constitute the first regiment.

1st Reg.

And the companies in the towns of Dover and Somersworth, shall form a first battalion—and the companies in the town of Rochester, shall form a second battalion, which shall constitute the second regiment.

2d Reg.

And the companies in the towns of North-Hampton, Hampton and Hampton-Falls, shall form a first battalion, and the companies in the towns of Seabrook, Kensington and South-Hampton, shall form a second battalion, which shall constitute the third regiment.

3d Reg.

And the companies in the towns of Exeter and Newmarket, shall form a first battalion—and the companies in the towns of Brintwood, Poplin and Ep-

4th Reg.

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ping, shall form a second battalion, which shall constitute the fourth regiment.

5th Reg. And the companies in the towns of Amherst, Merimac, Lytchfield and Duxbury shall form a first battalion, and the companies in the towns of Dunstable, Hollis, Nottingham-West and Raby, shall form a second battalion, which shall constitute the fifth regiment.

6th Reg. And the companies in the towns of Winchester, Richmond and Swansey, shall form a first battalion—the companies in the towns of Chesterfield and Hinddale, shall form a second battalion, which shall constitute the sixth regiment.

7th Reg. And the companies in the towns of Kingstown, East-Kingston, Hawke and Newtown, shall form a first battalion—the companies of Atkinson, Plaistow, Hamstead and Sandown, shall form a second battalion, which shall constitute the seventh regiment.

8th Reg. And the companies in the town of Londonderry, shall form a first battalion—the companies in the towns of Salem, Pelham and Windham, shall form a second battalion, which shall constitute the eighth regiment.

9th Reg. And the companies in the towns of Derryfield, Goffstown, Dunbarton and Bedford, shall form a first battalion—the companies in the towns of New-Boston and Weare, shall form a second battalion, which shall constitute the ninth regiment.

10th Reg. And the companies in the towns of Gilmantown and Barnstead, shall form a first battalion, the companies in the towns Sanborntown, Meredith and New-Hampton, shall form a second battalion, which shall constitute the tenth regiment.

11th Reg. And the companies in the towns of Concord, Pembroke and Bow, shall form a first battalion—the companies in the towns of Loudon, Canterbury and Northfield, shall form a second battalion, which shall constitute the eleventh regiment.

12th Reg. And the companies in the towns of Rindge, Jaffrey and Dublin, shall form a first battalion—the companies in the towns of Fitzwilliam, Marlborough and Packersfield, shall form a second battalion, which shall constitute the twelfth regiment.

13th Reg. And the companies in the towns of Piermont, Wentworth, Warren and Coventry, shall form a first battalion—

battalion—the companies in the towns of Haverhill, Bath and Landaff, shall form a second battalion, which shall constitute the thirteenth regiment.

And the companies in the towns of Plymouth, Holderness, Rumney, Campton and Thornton, shall form a first battalion—the companies in the towns of New-Chester, Alexandria, Bridgwater, Cockermouth and Hebron, shall form a second battalion, which shall constitute the fourteenth regiment. 14th Reg.

And the companies in the towns of Cornish, Plainfield, New-Grantham and Protectworth, shall form a first battalion—the companies in the towns of Claremont, Newport, Croydon and Wendell, shall form a second battalion, which shall constitute the fifteenth regiment. 15th Reg.

And the companies in the towns of Charlestown, Langdon, Unity and Acworth, shall form a first battalion, the companies in the towns of Alstead, Marlow, Washington, Stoddard, Lemster and Goshen, shall form a second battalion, which shall constitute the sixteenth regiment. 16th Reg.

And the companies in the town of Chester, shall form a first battalion—the companies in the towns of Candia, Raymond and Allentown, shall form a second battalion, which shall constitute the seventeenth regiment. 17th Reg.

And the companies in the towns of Nottingham and Deerfield, shall form a first battalion, the companies in the towns of Epsom, Northwood, Pittsfield and Chichester, shall form a second battalion, which shall constitute the eighteenth regiment. 18th Reg.

And the companies in the towns of Moultonborough, Sandwich and Tamworth, shall form a first battalion, the companies in the towns of Conway, Eaton, Burton, Bartlett, Chatham and the locations, shall form a second battalion, which shall constitute the nineteenth regiment. 19th Reg.

And the companies in the towns of Walpole and Westmoreland, shall form a first battalion—the companies in the towns of Surry, Gilsom and Sullivan, shall form a second battalion, which shall constitute a twentieth regiment. 20th Reg.

And the companies in the towns of Boscawen, Salisbury, Andover, New-London and Kearsarge-Gore, shall 21st Reg.

shall form a first battalion, the companies in the towns of Hopkinton, Warner, Sutton, Fishersfield and Bradford, shall form a second division, which shall constitute the twenty-first regiment.

22d Reg. And the companies in the towns of New-Ipswich, Sharon and Mason, shall form a first battalion—the companies in the towns of Peterborough, Temple and Wilton, shall form a second battalion, which shall constitute the twenty-second regiment.

23d Reg. And the companies in the towns of Lebanon, Enfield, Canaan and Grafton, shall form a first battalion—the companies in the towns of Hanover, Lime, Dorchester and Orange, shall form a second battalion, which shall constitute the twenty-third regiment.

24th Reg. And the companies in the towns of Concord, Lyman, Littleton, Franconia, Lincoln and Dalton, shall form a first battalion—the companies in the towns of Lancaster, Northumberland, Dartmouth, Percy, Colburne, Cockburne, Stuarts-Town and Stratford, shall form a second battalion, which shall constitute the twenty-fourth regiment.

25th Reg. And the companies in the towns of Durham, Lee and Madbury, shall form a first battalion—the companies in the town of Barrington, shall form a second battalion, which shall constitute the twenty-fifth regiment.

26th Reg. And the companies in the towns of Antrim, Dearing, Henniker, Hillsborough and Campbells-Gore, shall form a first battalion—the companies in the towns of Hancock, Francestown, Greenfield, Lyndsborough and Society, shall form a second battalion, which shall constitute the twenty-sixth regiment.

27th Reg. And the companies in the towns of Wakefield, Esfingham, Ossippee and Middleton, shall form a first battalion—the companies in the towns of Wolfborough, Tuftonborough, New-Durham and New-Durham-Gore, shall form a second battalion, which shall constitute the twenty-seventh regiment.

1st Brigade. And be it further enacted, That for arranging the militia into brigades and divisions; the order be as follows, viz. The first, third, fourth and seventh regiments shall compose the first brigade; the second,

2d Brigade. tenth, nineteenth, twenty-fifth and twenty-seventh regiments shall compose the second brigade; the eighth,

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eight, eleventh, seventeenth and eighteenth regiments shall compose the third brigade.

The fifth, ninth, twenty-first, twenty-second and twenty-sixth regiments shall compose the fourth brigade; the sixth, fifteenth, sixteenth, twelfth and twentieth regiments shall compose the fifth brigade; the thirteenth, fourteenth, twenty-third and twenty-fourth regiments, shall compose the sixth brigade; and that the first and third brigades shall form the first division; the second and sixth brigades shall form the second division, and the fourth and fifth brigades shall form the third division.

And be it further enacted, That all laws heretofore made for arranging the militia, be, and hereby are repealed.

This act passed December 27, 1792.

AN ACT in addition to an act, entitled, "An act for arranging the militia of this State into divisions."

Approved
Dec. 15,
1796.

BE it enacted by the Senate and House of Representatives in General Court convened, That the companies in the towns of Charlestown and Langdon, shall form a first battalion, the companies in the towns of Ackworth and Unity, shall form a second battalion, which shall constitute the sixteenth regiment.

16th Reg.

And the companies in the towns of Alstead, Marlow and Lempster, shall form a first battalion—the companies in the towns of Stoddard, Washington and Goshen, shall form a second battalion, which shall constitute the twenty-eighth regiment.

28th Reg.

Approved December 15, 1796.

AN ACT for forming and regulating the militia within this State, and for repealing all the laws heretofore made for that purpose.

Passed Dec.
28th, 1792.

BE it enacted by the Senate and House of Representatives in General Court convened, That the several laws heretofore made for regulating the militia, be, and hereby are repealed.

Repealing
clause.

And be it further enacted, That each and every free able-

Militia how
& by whom
to be enroll-
ed.

able-bodied white male citizen of this State, resident therein, who is, or shall be of the age of eighteen years, and under the age of forty years, except as herein after excepted, shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company, within whose bounds such citizen shall reside, within six months after the passing this act. And it shall, at all times hereafter, be the duty of such captain or commanding officer of the company to enrol every such citizen, as aforesaid; and also those who shall from time to time, arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty years (except as hereafter excepted) shall come to reside within his bounds; and shall without delay, notify such citizen of said enrolment by a proper non-commissioned officer of the company, by whom such notice may be proved.

Executive
officers, &c.
exempted.

And be it further enacted, That the vice-president of the United States; the officers, judicial and executive of the government of the United States; the members of both houses of congress, and their respective officers; all custom house officers, with their clerks; all post officers, and stage drivers, who are employed in the care and conveyance of the mail of the post office of the United States, and of this State; all ferry men employed at any ferry on the post road; all inspectors of exports; all pilots; all mariners actually employed in the sea-service of any citizen or merchant within the United States; members of the senate and house of representatives for the time being; secretary and deputy-secretary of the State; state and county treasurers; recorders of deeds; all civil officers, students of colleges and academies; ministers of the gospel; elders and deacons of churches; church wardens; grammar school-masters for the time being; masters of arts; people denominated quakers; selectmen for the time being; tutors or preceptors of any college or academy; all persons who may have sustained commissions of the peace; all who have, either under the commission of the State, or the United States, or any particular State, held the office of a subaltern or officer of higher rank; all physicians and surgeons who have certificates from the medical society or selectmen of the town or place wherein they reside

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one miller to each corn-mill, and one toll-gather to each toll-bridge, shall be, and they are hereby excused from militia duty, and also one ferryman to each ferry.

And be it further enacted, That it shall be the duty of the captain or commanding officer of each company, twice in every year, exclusively of the battalion meeting, to call forth his company for inspection of arms, and instruction in military discipline, viz.—in the months of June and September, annually, and at such other times as he shall think best; and that each commanding officer of a battalion, shall call his battalion together once in every year.

And be it further enacted, That each division within this State, shall be commanded by one major-general, who shall have two aids-de-camp, with the rank of major; each brigade by one brigadier-general, who shall have one brigade-inspector, who is also to perform the duty of brigade-major, with the rank of major. To each regiment, one lieutenant colonel commandant; and to each battalion one major; to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer. That the regimental staff, shall consist of one adjutant, one quarter-master, to rank as lieutenants; one paymaster; one surgeon; one surgeon's mate; one sergeant-major; one drum-major and one fife-major.

And be it further enacted, That there shall be provided at the expense of this State for each regiment, one standard and one suit of regimental colours—the standard to bear the device, “the arms of the United States;” the regimental colours, “the arms of this State;” that the drums and fifes be furnished by the commanding officers of the companies, at the expense of the State.

And be it further enacted, That the several commanding officers of companies, shall cause accurate returns to be made of their companies to the commanding officer of the regiment to which they belong, before the first day of February annually; and the commanding officer of each regiment, shall cause to be made to the brigade-major, a proper return of his regiment, before the first day of March annually; and the respective brigade-majors, shall make out to the adjutant general, returns of their respective brigades,

Each company exclusively, to be mustered twice, and each battalion once a year.

Each division, brigade & regiment by whom commanded.

What colours and at whose expense to be furnished.

By whom returns are to be made.

before the first day of April annually, agreeable to the forms that may be established by the adjutant-general, which the adjutant-general shall cause attested copies of, to be lodged in the secretary's office, by the first day of May annually.

Penalty for
not calling
companies
or battalions
together.

And be it further enacted, That each commanding officer of a company, who shall neglect to call his company together, as before provided, shall forfeit and pay for each neglect the sum of six pounds; and each commanding officer of a battalion who shall neglect to call his battalion, as before directed, shall pay a fine of nine pounds.

Notice.

And be it further enacted, That it shall be accounted sufficient notice to any non-commissioned officer or privates, for appearance on muster days, to be notified of such muster by a non-commissioned officer in person, or by a writing by him signed, to be left at his last, and usual place of abode, four days prior to such day of muster; and if any non-commissioned officer or private, after such notification, shall unnecessarily neglect to appear equipped, as the law directs, he shall pay a fine of nine shillings, which shall be levied by distress, and sale of the offenders goods and chattels, by warrant under the hand and seal of the captain, or commanding officer of said company, to be directed to the first sergeant of the company, who is to levy the same, by the same rules and regulations, as the laws have pointed out for collecting rates and taxes, and shall have one quarter part thereof for his trouble, and the same fees that are allowed to collectors, on distraining for taxes—and if no goods and chattels of the delinquent are to be found, then to levy the same on the body of such delinquent: *Provided nevertheless,* That no such warrant shall be issued until fifteen days after said muster days, that the delinquent may have time to make excuse (if any he has) for his non-appearance, which is to be made to the commanding officer of the company.

Disobedi-
ence punish-
ed.

And be it further enacted, That if any non-commissioned officer or soldier, shall prove refractory or disobedient on a muster day, or shall insult or abuse his officers, or either of them, or treat them with disrespect or contempt, the commanding officer present, may order the offender to be immediately tried by five commissioned

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commissioned officers, if so many should be present ; and if not so many present, as many as there are in the field, who are empowered to punish the offender, by ordering him to pay a fine not exceeding forty shillings, at the discretion of the officers, or ride a wooden horse.

And be it further enacted, That on all muster days, every officer shall yield due obedience to his superior officer and every non-commissioned officer and soldier shall yield entire and due obedience to the commands of their superior officers. And if any officer shall, on such days (or at any other time) refuse and neglect to obey the orders he may receive from his superior officers respecting any matter relating to the government of militia, he shall be tried by a court-martial, and if convicted thereof shall be cashiered. And the superior officer may immediately put such offender in arrest, and report him and his offence to the officer commanding the brigade (if the offender is under the rank of a field officer) and the commanding officer of the brigade is hereby empowered to appoint a court-martial for such trial, and to approve the sentence ; and if said offender shall by said court be cashiered, and the sentence thereof approved, the said officer shall be deemed incapable of holding any military office again in this State ; and in case the offender is of the rank of a field officer, or of higher rank, his offence shall be reported to the major-general, or officer commanding the division, who is hereby empowered to appoint a court martial for the trial of such offender, to approve the sentence of said court ; and if the offender be found guilty and the sentence shall be approved, he shall be disqualified as aforesaid.

The commander in chief shall at all times, have the right of appointing courts-martial, when he shall think it necessary.

All courts-martial, when appointed by the commander in chief, shall consist of thirteen members, the president of which shall be of the rank of major-general.

All courts-martial, when appointed by a major-general, shall consist of thirteen members, and the president shall be a lieutenant-colonel or officer of higher rank.

Officers to yield obedience.

Superior officer to arrest and a report

Commander in chief may appoint courts martial.

Number of members. 13

All courts-martial appointed by a brigadier, shall consist of thirteen members, the president of which shall at least, be of the rank of a field officer.

Members, by whom to be sworn.

The members of the courts-martial are to be sworn by the president, and the president shall be sworn by the next highest in rank of the members composing the same, and the president of every court-martial, shall have power to administer the oath to every witness.

In order to the trial of offenders, the oath of the president and members, shall be in the words following, viz.

Oath.

YOU swear, that you will well and truly try, and impartially determine the charge against the person now to be tried, according to the rules for regulating the militia of this State.

So help you GOD.

The oath to be administered to witnesses in courts-martial, shall be in the form following, viz.

Oath of witnesses.

YOU swear, the evidence you shall give relative to the charge now in hearing, shall be the truth, the whole truth, and nothing but the truth.

So help you GOD.

Officers amenable to illiberal behaviour.

And be it further enacted, That all military officers shall be amenable to a court-martial for any un-officer, or un-gentleman-like conduct or behaviour while on duty, and at all other times, and to be tried, and sentence approved in the same way and manner as before provided for disobedience of orders.

Witnesses refusing, &c. to be committed to gaol.

And be it further enacted, That all persons called by summons from the president of any court-martial to give evidence, who shall unreasonably refuse or neglect to appear, or appearing, shall refuse to give evidence, shall be committed to the common gaol of the county where such court is sitting, there to remain three months, unless sooner discharged therefrom by the justices of the superior court: And the president of the court is to lodge the accusation against him with the prison-keeper.

Judge advocate to be appointed.

And be it further enacted, That every person appointing a court-martial, shall appoint some suitable person to act as judge advocate, who shall make a fair record of the whole proceedings and deliver them to the officer appointing said court-martial, who shall

cause

cause the same, or a copy thereof, to be lodged in the secretary's office, within three months after such trial.

And be it further enacted, That out of the militia enrolled as herein directed, there shall be formed for each battalion, at least one company of grenadiers or light infantry; and to each division there shall be at least one company of artillery, and one troop of horse. There shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer. The officers to be armed with a sword or hanger, a fusée, bayonet and belt, with a cartouch box, to contain twelve cartridges; and each private matross shall be furnished with the same equipments as privates in the infantry. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier and one trumpeter. The commissioned officers to furnish themselves with good horses of at least fourteen hands and an half high, and to be armed with a sword, and pair of pistols, the holsters of which to be covered with bear-skin caps. Each dragoon to furnish himself with a serviceable horse of at least fourteen hands and an half high, a good saddle, bridle, mail-pillion and valise, holsters, a breast-plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and cartouch box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse, shall be formed of volunteers from the brigade, at the discretion of the commander in chief of the State, not exceeding one company of each to a regiment, and shall uniformly be clothed in regimentals, to be furnished at their own expence; the colour and fashion to be determined by the brigadier commanding the brigade to which they belong.

Each battalion to have one company of grenadiers, &c. and one company of artillery.

Officers how to be armed.

Troops of horse how officered, &c.

Artillery and horse of whom to be formed, and uniformly clad.

How to be armed and accoutred.

• *And be it further enacted,* That each non-commissioned officer and soldier belonging to the regiments of foot, shall within one year from and after the passing this act, furnish himself with a good fire-lock, bayonet and belt, a cartouch box that will contain twenty-four cartridges, two good flints, a knapsack and canteen—and that the commissioned officers belonging to companies of foot, shall be severally armed with a sword or hanger and an esponton, and that the field officers be armed with a sword or hanger.

And

Those unable, &c. to be equipped at the expence of the town.

Fines how to be appropriated.

Parents, &c. liable to a penalty.

Military watches, by whom to be appointed.

Signals to be fixed.

And be it further enacted, That such of the infantry as are under the care of parents, masters or guardians, shall be furnished by them with such arms and accoutrements. And such as are unable to furnish themselves, shall make application to the selectmen of the town, who are to certify to their captain or commanding officer, that they are unable to equip themselves, and the said selectmen shall, at the expence of the town, provide for, and furnish such persons with arms and equipments; which arms and equipments shall be the property of the town, at whose expence they were provided: And if any person so furnished, shall embezzle or wilfully destroy the same, he shall be punished by any court proper to try the same, upon complaint made by the selectmen of said town, by being publicly whipped not exceeding twenty stripes, or fined not exceeding forty shillings. And that all fines recovered for embezzling or destroying of arms and accoutrements as provided in this act, shall be paid into the hands of the selectmen to be appropriated in purchasing arms and accoutrements for such soldiers as are unable to purchase for themselves.

And be it further enacted, That parents, masters and guardians shall be liable for the neglect and non-appearance of such persons as are under their care (and are liable by law to train) and are to be proceeded against for the penalty in the same manner, as by this act is provided against other delinquents.

And be it further enacted, That the commander in chief, the officers commanding divisions, brigades or regiments, may appoint military watches or guards when an invasion of the State is apprehended, in such place and under such regulations as they may judge necessary: and all officers and soldiers under their command are to yield strict obedience to their orders and directions.

And be it further enacted, That the signals for an alarm are to be fixed by the captain general, and may by him be altered, from time to time, and proper notice thereof is to be by him given to the several officers; and if any non-commissioned officer or soldier, shall upon the alarm being given, unnecessarily neglect to appear properly armed and equipped, at such time and place as the commanding officer shall appoint,

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point, he shall pay a fine of twenty shillings ; and all persons serving on any military guards, or watches, shall be punishable for misconduct while in such service, by a court-martial to be appointed by the commanding officer of such guard or watch, provided he be a field officer, and in case he is not, then by the commanding officer of the regiment to which the offender belongs.

And be it further enacted, That when any non-commissioned officer shall refuse or neglect to notify or warn any of the non-commissioned officers or private soldiers of the company to which he belongs (being thereto ordered by his superior officer) he shall pay a fine of twelve shillings, for each non-commissioned officer or soldier he shall neglect to warn, to be recovered in the same way and manner as is before provided.

Penalty for refusing to warn, &c.

And be it further enacted, That every fine arising by any breach of this act, for which no special mode of recovery has been pointed out, may be recovered by action, bill, plaint or information, in any court proper to try the same.

Mode of recovering fines, and

And be it further enacted, That all fines recovered of any non-commissioned officer or soldier for neglect of duty, shall be paid into the hands of the commanding officer of the company, to which such non-commissioned officer or soldier may belong, to be expended in defraying the necessary expences of such company, as the commissioned officers of the same may direct. That all fines recovered of the commanding officer of any company, shall be paid into the hands of the commanding officer of the battalion, to which such commanding officer of a company may belong ; to be appropriated in instructing the music in such battalion.

how to be appropriated

That all fines recovered of the commanding officer of any battalion, shall be paid into the hands of the commanding officer of the regiment to which such battalion may belong, to be disposed of in defraying the necessary expences in forming and arranging the companies in such regiment, as the field officers of the same may direct.

And be it further enacted, That all commissioned officers shall take rank according to the date of their commissions ; and when two of the same grade bear

Officers, how to rank.

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equal date, then the rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.

Rules of discipline.

And be it further enacted, That the rules of discipline approved and established by Congress, in their resolution of the twenty-ninth of March, one thousand, seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia in this State.

Brigade inspector's duty.

And be it further enacted, That it shall be the duty of the brigade inspector, to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements; superintend their exercise and manœuvres, and introduce the system of military discipline before described.

Cavalry and artillery liable to the same fines.

And be it further enacted, That the cavalry and artillery be subject to fine or punishment in the same manner as those who belong to the infantry.

Courts-martial of whom to consist.

And be it further enacted, That all courts-martial may consist of officers of any corps within the limits of the brigade where the person accused may reside.

Legal notice, what considered as such.

And be it further enacted, That a captain or commanding officer at the head of his company, may direct his non-commissioned officers and soldiers to meet at any future day, which shall be legal notice.

Non-comm. officers liable to be reduced, &c.

And be it further enacted, That non-commissioned officers be reduced to the ranks, for any misdemeanor which in the opinion of all the commissioned officers of the company shall deserve such punishment.

Commissioned officers to reside.

And be it further enacted, That all commissioned officers belonging to any company of infantry shall reside within the limits of such company.

Different corps—first in rank to command.

And be it further enacted, That when it shall so happen, that officers of the different corps, shall be on duty together, the first officer in rank shall command, whether of the infantry, cavalry or artillery.

Arms, &c. free from distresses, &c.

And be it further enacted, That every citizen enrolled as directed in this act, and provided with arms and accoutrements, shall hold the same exempted from all suits, distresses, executions, or sales for debt, for the payment of taxes.

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And be it further enacted, That the militia of this State, shall be divided into three divisions, and if convenient, each division shall consist of two brigades, each brigade of four regiments, each regiment of two battalions, each battalion of five companies, and each company of sixty-four privates. Militia to be divided.

And be it further enacted, That in forming the cavalry and artillery, not more than one eleventh part shall inlist out of any one company of infantry into such corps. Cavalry and artillery of whom to be formed.

And be it further enacted, That the field officers of each and every regiment, shall form and arrange the companies in their several regiments, from time to time, as they shall think the public good may require. Field Officers to arrange companies.

And be it further enacted, That there shall be an adjutant-general, whose duty it shall be to distribute all orders from the commander in chief of this State, to the several corps; to attend all public reviews, when the commander in chief of this State shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by law; to furnish blank forms of different returns that may be required, and to explain the principles on which they shall be made; to receive from the several officers of the different corps throughout the State, returns of the militia, under their command, reporting the actual situation of their arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline. Adjutant-General, his duty.

And be it further enacted, That compensation shall be made to the adjutant-general, and the brigade inspectors for their services, from time to time, by the legislature, as they shall think just. Compensation to Adj. and Brigade inspectors.

And be it further enacted, That the colour of the uniform of the infantry be determined on by the commander in chief. Colour of uniform, by whom determined.

And be it further enacted, That each and every non-commissioned officer or soldier, who shall inlist into any corps of horse or artillery, shall within six months from and after such inlistment, equip himself as the law directs, and at the expiration of the said six months, should he not be equipped as aforesaid, then Cavalry and artillery, if not equipp'd within six months to be returned.

to return to the company from which he enlisted, and the commanding officer thereof, is hereby directed to enrol him accordingly.

Cavalry to
be annexed
to infantry.

And be it further enacted, That the several companies, which compose the regiments of cavalry, be annexed to the regiments of infantry in manner following :

Cavalry to
be under
command of
field officers
of infantry.

To each regiment of infantry there shall be, as far as the number of companies of cavalry will admit of it, one troop of horse, or company of cavalry, with the present officers (if they see fit) and men of said companies, who are now uniformly clothed and equipped, or shall be within four months ; said troops of horse shall be under the command of the field officers of the regiments of infantry, and shall be joined to such regiments as shall be the most contiguous and convenient to said companies. Privilege shall be allowed to the non-commissioned officers and privates of cavalry at any time hereafter, of being enrolled as infantry, provided they decline serving as cavalry, and said companies of cavalry may be completed by enlistments, from time to time, from the infantry, as vacancies may be in said companies.

Act to be
read, &c.

And be it further enacted, That this act shall be read at the head of each company in the several regiments in this State, at least once every year.

This act passed December 28, 1792.

Passed June
19, 1793.

AN ACT in addition to an act, entitled "An act for arranging the militia into divisions ;" and in addition to an act, entitled "An act for forming and regulating the militia within this State, and for repealing all the laws heretofore made for that purpose."

Preamble:

WHEREAS in the aforesaid act "for arranging the militia into divisions," sundry towns were omitted and *Whereas* in the said act "for forming and regulating the militia within this State," no particular person was authorized or directed to provide standards and regimental colours for the several battalions and regiments in the same :

Therefore,

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That the company or companies in the town of Orford, shall be considered as belonging to the first battalion in the thirteenth regiment; and the company or companies in the town of Trecothick shall be considered as belonging to the first battalion in the fourteenth regiment; and the company or companies in the town of Keene shall be considered as belonging to the second battalion in the twentieth regiment.

Enacting clause.

And the inhabitants on lands adjoining the towns of Franconia and Lincoln shall be considered as belonging to the first battalion in the twenty-fourth regiment.

And be it further enacted, That his excellency the governor cause to be provided, at the expence of the State, one standard for each regiment, and one suit of regimental colours for each battalion.

Governor to provide standards.

This act passed June 19, 1793.

AN ACT in addition to an act, entitled, "an act for regulating the militia within this State," passed December 28, 1792.

Approved June 18, 1795.

BE it enacted by the Senate and House of Representatives in General Court convened, That every free, able bodied, white male citizen of this state, resident therein, who is, or shall be of the age of sixteen years, and under forty years of age, under such exceptions as are made in said act, shall be enrolled in the militia, and shall in all other respects be considered as liable to do the duties of the militia in the same way and manner, as those of the age of eighteen years and upwards, and every citizen enrolled and liable as aforesaid, shall while under the age of twenty-one years be exempt from a poll tax.

From the age of sixteen to forty liable to be enrolled.

And be it further enacted, That no non-commissioned officer or private soldier, shall upon any muster day, or the evening of the same day, discharge and fire off a musquet or gun in any public road, or near thereto, or in, or near to any house, or on, or near to the place of parade, unless leave therefor be first had from a commissioned officer, on penalty of forfeit-

No gun to be fired off.

ing

Penalty for
firing.

ing for each offence so committed, the sum of one dollar, to be recovered by action before any Justice of the Peace within the county where such offence shall be committed, by any person who will sue therefor with costs of prosecution.

And be it further enacted, That the warrant of distress to be issued in case of unnecessary neglect to appear equipped on muster days, shall be in the following form, the blanks therein to be filled up as the circumstances of the case may require.

STATE OF NEW-HAMPSHIRE.



To *first serjeant of*
company in the *regiment of the militia*
of said state,

Form of
warrant;

GREETING.

WHEREAS of in the county of
a private soldier enrolled according to
law and liable to do duty in said company, was duly
notified and ordered to appear on the parade near to
in on the day of Anno
Domini, one thousand seven hundred and ninety
at the hour of of the clock in the noon,
equipped with arms, ammunition and accoutrements
according to law, for inspection and military exercises,
and there to attend until further order, being the
time and place for mustering said company; but the
said did unnecessarily neglect to attend equipped
as aforesaid, agreeably to said orders and notice, and
whereas more than fifteen days have elapsed from said
day of muster, and the said hath neglected to
make excuse to the commanding officer of said com-
pany for non-appearance as aforesaid, whereby the
said hath incurred the penalty and become lia-
ble by law, to pay a fine of one dollar and fifty cents
to be disposed of according to the law in said case
made and provided.

You are therefore in the name of the State of New
Hampshire hereby required by distress and sale of the
goods and chattels of the said to levy and
collect the aforesaid sum of one dollar and fifty cents
together with forty cents for this precept, and there-
of also to satisfy yourself for your own fees; and for
want of such goods and chattels whereon to make
distress, you are hereby commanded to take the body
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of the said _____ and him commit unto the gaol in _____ in said county, and the keeper of said gaol is accordingly commanded to receive the said _____ and him detain in his custody, within said gaol, until he pay the aforesaid sums, with all lawful fees, or otherwise be discharged by due course of law; and you are in all respects to observe and follow the rules and directions of the laws respecting the premises.—And you are hereby directed to make return of this precept, with your doings thereon, unto me the undersigned, or the commanding officer of said company for the time being, within forty days from the date hereof.

Given under my hand and seal at _____ in said county, this _____ day of _____ Anno Domini, one thousand seven hundred and ninety _____

{ Commanding Officer
of said Company.

Approved June 18, 1795.

AN ACT in addition to an act, entitled, "An act for regulating the militia within this State," passed December 28, 1792.

Approved
Dec. 26,
1795.

BE it enacted by the Senate and House of Representatives in General Court convened, That at all times, when officers of the same grade, whose commissions are of the same date, shall be on duty in the same corps or detachment, and whose prior pretensions to seniority cannot be ascertained by their former military commissions, the rank of such officers shall be determined agreeably to the laws already in force, and not otherwise.

Rank deter-
mined.

And be it further enacted, That at all musters of the militia, when more than one company shall be on the parade at the same time, the officers shall be posted with their several companies, and the companies shall take rank according to seniority.

How officers
are to be
posted.

And be it further enacted, That whenever any commissioned officer shall be found guilty of disobedience of orders, or ungentleman-like conduct, he shall be cashiered and disqualified as the law provides, or be reprimanded in orders by the officer appointing _____

Punishment
of disobe-
dience.

ing the court-martial, as the members of said court shall determine.

In case of
disability.

And be it further enacted, That whenever any non-commissioned officer or soldier shall think himself unable to perform military duty, and shall procure a certificate certifying his disability from the surgeon or surgeon's mate of the regiment to which he belongs, to the commanding officer of said company, then said non-commissioned officer or soldier shall be considered as excused from military duty until it shall be thought by the commanding officer of said company, and the surgeon or surgeon's mate for the time being, that such disability is removed.

Who ex-
cused.

And be it further enacted, That in all towns where there may be fire engines, eighteen persons for each engine shall be excused from doing duty on training or muster days, upon certificate of the selectmen to any field officer of the regiment.

Provido.

Provided nevertheless, They shall constantly be armed and equipped according to law, and shall be liable to do duty in the militia at all times when they do not belong to said engines.

Approved Dec. 26, 1795.

Approved
Jan. 8, 1795

AN ACT granting to each company of cavalry, seventeen dollars, to furnish instruments of music and colours.

Enacting
clause.

BE it enacted by the Senate and House of Representatives in General Court convened, That the captain of each company of cavalry in this State, organized according to law, be entitled to receive out of the treasury seventeen dollars, in addition to the sum heretofore allowed, for the purpose of furnishing his company with instruments of musick and colours; and the Governor being certified by the commanding officer of a regiment, that a company of cavalry belonging to the same, is organized as aforesaid, shall give the captain of such company an order on the treasurer for the aforesaid sum.

Approved January 8, 1795.

AN

AN ACT to authorize and empower the proprietors of any common and undivided lands to call meetings of their respective proprietors, and to levy and collect such sum or sums of money on their said lands as they may judge necessary; and also to transact all their other common and public affairs.

Passed July 3, 1781.

WHEREAS it is necessary that the proprietors of townships, and owners of other lands lying in common and undivided, should have power to call proprietary meetings; and to levy and collect such sums of money, from time to time, as they may judge necessary to carry on their public business; and to transact all their other common and public affairs:

Preamble,

Therefore,

BE it enacted by the Council and House of Representatives in General Assembly convened, and by the authority of the same, it is hereby enacted, That where no particular method hath been settled and agreed upon by any body of proprietors for calling their proprietary meetings (which they are hereby authorized and empowered to do at any of their legal meetings) any justice of the peace is hereby authorized upon application of so many of said proprietors as own one sixteenth part of the rights, shares and interests of the whole, being made to him in writing expressing their desire that he would notify and call a meeting of such proprietors, and the end and design of it; he shall issue a warrant or notification to the proprietors who are to meet, setting forth, that such application has been made, the time and place of holding such meeting, and the business to be transacted at the meeting, and shall deliver the same to one of the proprietors who made such application, who shall cause the same to be printed in the New-Hampshire Gazette, three weeks successively, and shall cause the same to be posted up in some public place within such town, parish or place where the estate lies (if within any settled town) the same time before the day of holding such meeting. And said proprietors may, at such, or any other legal meeting, choose any officers they shall judge necessary to do any business of the proprietors, who shall be sworn to the faithful discharge of the duty and office to which they shall be respectively chosen; and shall continue

Any justice of the peace upon application, may issue a warrant to call a proprietary meeting.

Proprietors may choose any officers they shall judge necessary.

therein

therein, and be hereby authorized to discharge the same until others shall be chosen to succeed them respectively.

Estate of
proprietors
to pay their
proportion.

Collectors
duty.

Collectors to
make sale.

And be it further enacted; That the interest and estate of every such proprietor, so lying in common, shall be liable to pay and stand charged with his part and proportion of any sum of money which at any legal meeting shall be agreed upon and voted to be raised; and those who shall be chosen to assess and proportion the same amongst the proprietors (commonly called assessors) shall set such proportion to the original right or proprietor, and commit the list thereof, with a warrant or precept, to the person chosen to collect the same, therein setting forth his duty agreeable to this act, the time for completing the collection, and to whom the money is to be paid. And such collector is hereby directed, upon receiving the same, to give notice in manner and form aforesaid of the assessment, and where the same shall be paid and received; as also, that if payment shall not be made accordingly, the money will be levied by sale of so much of the interest and property of the proprietor or owner who shall be delinquent therein fourteen days after the last week of notice as aforesaid: after which the said collector shall advertise so much of the delinquent proprietor's or owner's land for sale as will pay said taxes and the reasonable incidental charges, giving three weeks notice of such sale, at least, by publishing the same in the newspaper as aforesaid, and also by posting the same for the term aforesaid, in some public place in the town or place where said lands lie, if the same be settled, and in case the said delinquent proprietor or owner shall neglect to pay the aforesaid taxes, with the incidental charges (excepting the cost of the first advertisement of such assessment, which shall be defrayed by the proprietors) to the said collector before the sale: then the said collector shall, on the day appointed, proceed to make sale at public auction of so much of said delinquent's land as will pay said taxes, and the reasonable incidental charges as aforesaid, provided the said sale be made between the hours of ten of the clock in the forenoon, and six of the clock in the afternoon. And the said collector is hereby authorized

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rized to execute a good and valid conveyance thereof to the purchaser.

Provided nevertheless, and be it further enacted, That each proprietor or owner as aforesaid, his heirs or assigns, shall have the liberty of redeeming any of his lands sold as aforesaid, at any time within the term of two months after the sale thereof as aforesaid, he or they paying to the purchaser a sum amounting to the real value of what the land sold for, the interest therefor to the time of payment, and all reasonable charges.

Liberty for redemption.

And that all persons actually engaged in the war in the service of the United States of America, or in captivity, being out of this State, or on public business out of this State, their heirs, executors, administrators or assigns, shall have the like liberty of redeeming any of their lands sold as aforesaid, at any time within the term of six months after the said impediment shall be removed, they paying the sum, interest and charges, as aforesaid. And all votes at the said proprietors meetings shall be computed according to the interest of the voters. And any body of proprietors, at any legal meetings as aforesaid, are hereby authorized to confirm, ratify and establish any grants, conveyances, votes and transactions by them designed and intended to be made, done, performed or transacted, agreeable to such design, intention and aim, notwithstanding any want of legal form, or proper terms, or any defect of process relative to the same.

Persons absent shall have the liberty.

Proprietors may confirm grants, &c.

And whereas, it may so happen that new townships and tracts of land may be divided and severed among the proprietors thereof, and it may be necessary that such proprietors levy taxes upon such lands as are or may be laid out and divided into lots, in order to fulfil the terms and conditions of the grants or charters by which said lands are holden :

Therefore be it further enacted, That when it shall so happen that there is not common land sufficient to satisfy the taxes so assessed, the lot or lots so divided and severed, that are or may be drawn or held to any right or share, shall be liable to be assessed and sold for the taxes of said right, in the same manner, and under the same regulations as in and by this act is provided

Lots may be assessed and sold for taxes

and directed to be done in selling and disposing of a common right, or any part thereof, and to prevent the injury which may otherwise accrue to purchasers, the assessors aforesaid shall proportion the tax laid upon each right to the several lots thereto belonging, according to the proportion of such lots to the original right, and no more, and the same may be sold by the rules and directions aforesaid.

And whereas the proprietors of many towns and places in this State, in order to carry on and perform their settlements according to the conditions and limitations of their respective grants, have been under a necessity of holding proprietary meetings, and transacting many matters in their judgment necessary to be done for the good of the affairs of the said respective proprietries since the acts and laws of this State, authorizing and empowering proprietary meetings, and ratifying and confirming their proceedings as such, have expired, being made temporary :

Therefore be it further enacted by the authority aforesaid, That all proprietary meetings holden since the expiration of the laws of this State, authorizing and empowering proprietary meetings, and appointment of necessary officers, and all other proprietary matters and transactions whatsoever, had or done in any of the said proprietary meetings, shall be deemed and held good and valid in law, as fully and amply to all intents and purposes, as the same might or could have been, had the said expired acts and laws of this State been in full force until this time.

Provided nevertheless, That nothing in this act contained, shall extend, or be construed to extend, to charge any proprietor who has fully complied with the terms, conditions and duties required or stipulated in the grant or charter under which he holds his interest therein, towards satisfying and discharging such terms, conditions and duties, required of any other proprietor who hath not fully complied with such terms, conditions and duties as aforesaid.

This act passed July 3, 1781.

Passed Nov.
10, 1784.

AN ACT in addition to an act, entitled, "An act to authorize and empower the proprietors of any common and undivided lands to call meetings of their

All transactions valid
in law.

their respective proprietors, and to levy and collect such sum or sums of money on the said lands, as they may judge necessary ; and also to transact all their common and public affairs," passed the third of July, in the year of our Lord, *one thousand seven hundred and eighty-one.*

WHEREAS in and by said act it is enacted, that when new townships and tracts of land are divided and severed among the proprietors thereof, and it may be necessary that such proprietors levy taxes upon such lands as are, or may be laid out and divided into lots, in order to fulfil the terms and conditions of the grants or charters, by which the said lands are holden, the lot or lots so divided and severed, that are, or may be drawn or held to any right or share, shall be liable to be assessed and sold for the taxes of the said right, but no provision is made in said act for assessing said lots for any other purpose, which is often found necessary :

Preamble.

BE it therefore enacted by the Senate and House of Representatives in General Court convened, That when such townships or tracts of land, are so divided and severed, and the said proprietors shall find it necessary to raise any sum of money for the defraying any proprietary charges, and at any legal meeting of such proprietors, shall agree upon and vote to raise such sum, and there is not common land sufficient to satisfy the same, the lot or lots so divided and severed that are, or may be drawn or held to any right or share, shall be liable to be assessed and sold for their proportion of the taxes of said right, in the same manner as in and by the said act is directed to be done in selling of a common right, or any part thereof, and that at all such meetings every holder of any of said lands, shall be admitted, and have a right to vote according to their respective interest.

Enacting clause.

And whereas it often happens that more than one person is interested in a right, or proprietor's share of land, or a lot, part of such right held in common and undivided, and one or more being owner or owners of such land, shall pay his, her and their proportion of such taxes according to their interest, and some other owner or owners in the same land, being delinquent in paying their proportion of such taxes, shall

shall occasion some of such lands to be sold for the unpaid taxes :

Lands sold
shall be deemed as part,
&c.

Therefore be it enacted, That all lands sold in such cases, shall be deemed, judged, and taken as part of the interest or share of the delinquents, according to the quantity and quality of the whole.

This act passed November 10, 1784.

Passed June
17, 1796.

Meetings
where to be
holden.

AN ACT in addition to the laws now in force relating to proprietary matters.

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the passing this act, all meetings and adjourned meetings of any proprietors of lands, to be holden by virtue of the laws of this State, for transacting proprietary matters, and all vendues, and adjourned vendues for the sale of lands of the proprietors, on account of the non-payment of any taxes of the delinquents, shall be holden in the manner in this act mentioned, and not otherwise ; that is to say, in all such towns and places within this State, having fifty families settled and resident therein, all the meetings, adjourned meetings and vendues for the sale of lands, shall be holden in such town or place for which the business is to be transacted ; and in all such towns and places, as at the time of holding any proprietary meeting, adjourned meeting, or vendue for the sale of lands, there may at that time be twenty families, or any number of families resident therein between twenty and fifty, such meeting or vendue shall be holden in such town, or in the highest town thereto, which may at that time have fifty families resident therein, or in the nearest shire town thereto, in the county wherein the lands lie.

Time of redemption.

And be it further enacted, That the same term of time, and mode of redemption in proprietary matters shall be had and pursued, as by the laws of this State is allowed and pointed out for the payment of money for the redemption of lands sold for State and county taxes.

The foregoing act was returned by his Excellency the Governor, with his objections thereto, and afterwards re-passed by more than two thirds of both branches of the legislature.

June 17, 1796.

An

AN ACT for ceding to the United States of America, Passed Feb. 14, 1791.
one acre and three quarters of an acre of land, with the fort and light-house thereon, situate in Newcastle.

BE it enacted by the Senate and House of Representatives in General Court convened, That one acre and three quarters of an acre of a certain neck of land situate in Newcastle, on Great Island, at the entrance of Piscataqua river, commonly called Fort Point, to begin at the north easterly extremity of said point, and to run south westerly, carying the whole width of said neck of land, until a line crossing said neck, south forty degrees east, shall complete the aforesaid acre, and three quarters of an acre of land, together with the fort and light-house thereon, be, and hereby are ceded to, and vested in the United States of America, with all the jurisdiction thereof, which is not reserved by this act.

Cession of
Fort Point
to the Uni-
ted States.

Provided nevertheless, and be it further enacted, That if the United States shall at any time neglect to keep lighted, and in repair said light-house, the cession aforesaid shall in that case be utterly void and of no effect. *Provided also,* That all writs, warrants, executions and all other processses of every kind, both civil and criminal issuing under the authority of this State, or any officer thereof, may be served and executed on any part of said land, or in said fort, or any other building which now is, or hereafter may be erected upon the premises aforesaid, in the same way and manner as though this act had not been passed. *And provided further,* That if the United States shall at any time make any compensation to any one of the United States, for the cession of any light-house, fort or land, which hath been, or hereafter may be made to the United States, the like compensation be made to this State for the land, fort and light-house by this act ceded, in proportion to their respective values.

On condi-
tions.

This act passed February 14, 1791.

AN ACT suspending the operation of sundry acts therein enumerated, until a certain time therein mentioned. Passed Feb. 18, 1791.

Whereas

Preamble. *Whereas the following acts have passed the General Court the present session, namely :*

AN act for establishing courts of law for the administration of justice within this State, and designating their powers, and regulating their proceedings in certain cases.

An act regulating process and trials in civil causes.

An act prescribing the forms of writs in civil causes.

An act for the punishment of certain crimes.

An act for the punishment of certain crimes not capital.

An act for the punishment of lewdness, adultery and polygamy.

An act regulating marriages, and for the registering of marriages, births and burials.

An act to prevent incestuous marriages, and to regulate divorces.

An act for the punishment of profane cursing and swearing.

An act defining the duty and regulating the office of sheriff.

An act regulating prisons.

An act for the ease and relief of persons imprisoned for debt.

An act for regulating towns, and the choice of town officers.

An act for establishing an equitable method of making taxes, and for ascertaining the powers of selectmen.

An act declaring the duty, and defining the power of collectors of taxes.

An act directing the proceedings against deficient collectors.

An act regulating fees.

An act for setting off debts, mutual demands and executions against each other.

An act subjecting lands and tenements to the payment of debts, and directing the mode of levying executions on real or personal estate.

An act declaring the mode of conveyance by deed.

An act prescribing the time and mode of redeeming real estate mortgaged or conveyed by deed of bargain and sale, with defeazance.

An act for the taking of affidavits out of court.

AN

An act for the convenient and speedy assignment of dower.

An act directing the proceeding in cases of forcible entry or detainer of lands or tenements.

An act for laying out highways.

An act relative to common fields, and regulating fences.

An act regulating pounds.

An act relative to strays and lost goods.

An act allowing a certain premium for killing wolves.

An act to prevent frauds and perjuries.

An act punishing idle and disorderly persons, for the support of the poor, and designating the duties, and defining the powers of overseers of the poor.

An act for the suppressing of lotteries.

An act to restrain the taking of unlawful interest.

An act for the maintenance of bastard children.

An act for preventing trespasses.

An act for the relief of idiots and distracted persons.

An act relating to attornies

An act for the establishing of forms of oaths.

An act for the equal distribution of insolvent estates.

An act directing the proceedings against the trustees of absent or absconding debtors.

An act empowering the judge of probate to grant licence to sell real estate in certain cases.

An act relative to the alteration of wills.

An act regulating the choice and service of grand jurors.

An act regulating bail in civil causes.

And whereas it would be highly improper that the said acts should take effect, or be in force until they be printed and distributed through the State for the information of the people at large :

Therefore,

Be it enacted by the Senate and House of Representatives in General Court convened, That the said acts and laws shall not be in force until the first day of November next, any thing in said acts and laws to the contrary notwithstanding.

This act passed February 18, 1791.

Passed June 17, 1791.

AN ACT suspending the operation of sundry acts therein enumerated, and referred to, until a certain period.

Whereas in and by an act, entitled, "An act suspending the operation of sundry acts therein enumerated, until a certain time therein mentioned," made and passed the eighteenth day of February, A. D. 1791, the operation of said acts and laws therein particularly enumerated was suspended until the first day of November next, and whereas it is necessary that the operation of said acts and laws should be further suspended.

Therefore,

BE it enacted by the Senate and House of Representatives in General Court convened, That the said acts and laws in said suspending act enumerated, shall not be in force until the first day of February next, any thing in said acts and laws to the contrary notwithstanding.

And whereas the following acts have passed the general court the present session, namely,

An act prescribing the duty and directing the mode of choosing registers of deeds, and county treasurers.

An act for recording proceedings before justices of the peace, and for preserving such records.

An act regulating the office of coroner.

An act regulating licensed houses.

An act to prevent fraud in cordwood exposed to sale.

An act regulating swine.

An act declaring the limits and boundaries of the several counties in this State.

An act for the limitation of actions, and for preventing of vexatious suits.

And whereas it would be highly improper that the before recited acts should take effect, or be in force until they are printed and distributed for the information of the people :

Therefore,

Be it further enacted, That the said acts and laws shall not take effect or be in force until the first day of February next, any thing in said acts and laws to the contrary notwithstanding.

This act passed June 17, 1791.

AN

AN ACT in further addition to an act, passed the se-
 venteenth day of June, Anno Domini, 1791, enti-
 tled, "An act suspending the operation of sundry
 acts therein enumerated, and referred to until a
 certain period."

Passed June
20, 1792.

WHEREAS it is found necessary further to suspend Preamble:
the operation of said acts or laws now known by the
name of the revised laws ;

Therefore,

BE it enacted by the Senate and House of Representa-
 tives in General Court convened, That the opera-
 tion of said acts or revised laws, and those also in the
 said act referred to, be, and hereby are further sus-
 pended until the fifteenth day of September next,
 then to take effect and be in full force. *Provided*
nevertheless, That an act entitled, "An act to pre-
 vent incestuous marriages, and to regulate divorces,"
 shall not be suspended hereby.

Time of sus-
pension, one
excepted.

This act passed June 20, 1792.

AN ACT to repeal sundry acts and laws therein }
 mentioned. } Passed June
 20, 1792.

BE it enacted by the Senate and House of Representatives in General Court convened,
 That the following acts be, and they hereby are repealed : namely,

An act requiring all persons to take the oaths appointed to be taken instead of
 the oaths of allegiance and supremacy, passed July 8, 1696.

An act to prevent damages by horses, passed June 8, 1697.

An act to return able and sufficient jurors to serve in the several courts of jus-
 tice, and to regulate the election of representatives to serve in the general as-
 sembly within this province, passed at a session of the general court, begun and
 holden at Portsmouth, August 7, 1699.

An act for establishing courts of public justice within this province, passed at
 the last mentioned session.

An act to prevent impounding cattle wrongfully, passed at a session of the ge-
 neral court, begun and holden at Portsmouth, on the 14th June, 1701.

An act against adultery and polygamy, passed at the last mentioned session.

An act against trespassing in town commons, passed at the last mentioned session.

An act for as much as sheriffs, under-sheriffs and constables, have often times
 need of aid, and assistance in the execution of their respective offices, passed at
 the last mentioned session.

An act for regulating of tanners, curriers, and cordwainers, and for the better
 preventing of deceits and abuses by tanners, curriers, dressers, or workers up of
 leather, passed at the last mentioned session.

An act for the punishing criminal offenders, passed at the last mentioned session.

An act for recording deeds and conveyances, passed at the last mentioned session.

An act for regulation of seamen, passed at a session of the general court begun
 and holden at Portsmouth on the 21st June, 1701.

An act for taking affidavits out of court, passed at the last mentioned session.

An act for regulating of trials in civil causes, passed at the last mentioned session.

An act for regulating the measure of boards, joist and plank, &c. passed August 23, 1704.

An additional act for the more equal assessing and collecting of public taxes in this province, passed December 18, 1705.

An act for preventing of trespasses, passed October 16, A. D. 1707.

An act for the encouragement of the inhabitants of her majesty's province of New-Hampshire, in the making of tar, to be transported into her majesty's kingdom of Great-Britain, and otherwise for the encouragement of trade, passed 18 November 1707.

An act for the better preservation of all mast trees, or white pine trees, within her majesty's province of New-Hampshire, passed May 10, 1708.

An act for prevention of frauds and forgery, upon the bills of credit in use in this and the neighboring provinces, passed 14 May 1711.

An act to prevent default in appearance of jurors, passed at a session of the general court begun and holden at Portsmouth, 14 May 1714.

An act for the convenient and speedy assignment of dower, passed at the last mentioned session.

An act against receiving of stolen goods, passed at the last mentioned session.

An act for preventing men's sons or servants absenting themselves from their parents or master's service without leave, passed at the last mentioned session.

An act providing for posthumous children, passed at the last mentioned session.

An act to prevent incestuous marriages, passed at the last mentioned session.

An act directing the proceedings against forcible entry and detainer, passed at the last mentioned session.

An act to prevent fraud in cordwood exposed to sale, passed at the last mentioned session.

An act for the partition of lands, and the recovery of legacies, passed at the last mentioned session.

An act to prevent the destroying and murdering of bastard children, passed at the last mentioned session.

An act for the regulating of prisons, and to prevent escapes, passed at the last mentioned session.

An act relating to attornies, passed at the last mentioned session.

An act concerning marriages, births and burials, passed at the same last mentioned session.

An act to prevent disorders in the night, passed at the last mentioned session.

An act appointing the sheriff to have the keeping of the common gaol and the prisoners therein, passed at the last mentioned session.

An act prohibiting the importation or bringing into this province any Indian servant or slave, passed at the last mentioned session.

An act for the maintenance and supply of the ministry within this province, passed at the last mentioned session.

An act against shipping horses without entry, passed at the last mentioned session.

An act for the inspecting and suppressing of disorders in licensed houses, passed January 6, 1715.

An act for a constable's watch, 14 January 1715.

An act of privilege to the members of the general assembly, passed at a session of the general court, begun and holden at Portsmouth, on the 13 May, 1718.

An act to prevent charges arising upon this province for prisoners committed for theft, passed at the last mentioned session.

An act against hawkers, peddlars and petty chapmen, passed at the last mentioned session.

An act for prevention of common nuisances, arising by slaughter-houses, still-houses, &c. and curriers, passed at the last mentioned session.

An act about powder money, passed at the last mentioned session.

An

Sundry laws repealed.

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An act to prevent trespasses in cutting down trees upon land without fence, passed at the last mentioned session.

An act for passing sheriffs' accounts, passed at the last mentioned session.

An act for the better regulation of swine going at large, passed at the last mentioned session.

An act relating to strays and lost goods, passed at the last mentioned session.

An act relating to sureties upon mean process in civil actions, passed at the last mentioned session.

An act to ease people that are scrupulous in swearing, passed at the last mentioned session.

An act for the better regulating of town and proprietary meetings, passed at the last mentioned session.

An act for the regulating of mills, passed at the last mentioned session.

An act for suppressing and punishing of rogues, vagabonds, common beggars, and other lewd, idle, and disorderly persons, and also for setting the poor to work, passed at the last mentioned session.

An act for providing of pounds and to prevent rescous and pound breach, passed at the last mentioned session.

An act for the establishing forms of oaths, passed at the last mentioned session.

An act for regulating fees, passed at the last mentioned session.

An act for suppressing robberies and assaults, passed at the last mentioned session.

An act for making of lands and tenements liable to the payment of debts, passed at the last mentioned session.

An act for the payment of cure of soldiers that are wounded, passed at the last mentioned session.

An act to prevent the concealing of estates from assessors, passed at the last mentioned session.

An act for restraining inhuman severities, passed at the last mentioned session.

An act for regulating ferries, passed at the last mentioned session.

An act for the equal distribution of insolvent estates, passed at the last mentioned session.

An act to prevent causeless arrests, &c. passed at the last mentioned session.

An act relating to appeals from judgment in bar, or abatement, passed at the last mentioned session.

An act for the better securing the payment of prison charges, passed at the last mentioned session.

An act for regulating the fishery, passed at the last mentioned session.

An act for encouraging the killing of wolves, passed at the last mentioned session.

An act to enable towns, villages and proprietors in common and undivided lands, to sue and be sued, passed at the last mentioned session.

An act prescribing forms of writs in civil causes, passed at the last mentioned session.

An act for regulating cattle, corn fields, and fences, passed at the last mentioned session.

An act directing the admission of town inhabitants, passed at the last mentioned session.

An act against murder, &c. passed at the last mentioned session.

An act to enable creditors to receive their just debts, out of the effects of their absent or absconding debtors, passed at the last mentioned session.

An act for regulating weights and measures, passed at the last mentioned session.

An act relating to the office and duty of a coroner, passed at the last mentioned session.

An act for regulating townships, choice of town officers, and setting forth their power, passed at a session of the general court begun and holden at Portsmouth, 1719.

An act to encourage the raising of sheep within this province, passed at the last mentioned session.

An act against taking more than established fees, passed at the last mentioned session.

An act for encouraging iron works in the province of New-Hampshire, passed at the last mentioned session.

An act providing that in suits where goods or other estate is attached, the defendant be summoned, passed at the last mentioned session.

An act to prevent and make void clandestine and illegal purchases of lands from the Indians, passed at the last mentioned session.

An act to encourage the sowing and curing of hemp, and to preserve pitch pine trees for drawing turpentine, passed at the last mentioned session.

An act for preventing masters of ships conveying debtors out of this province, passed at the last mentioned session.

An act for regulating the assize of casks, and preventing deceit in packing of fish, beef, and pork for sale, passed at the last mentioned session.

An act relating to constables collecting rates or assessments, passed at the last mentioned session.

An act for preventing of frauds and perjuries, passed at the last mentioned session.

An act in addition to an act to prevent damages by horses, passed at a session of the general court, begun and holden at Portsmouth, 18 April, 1721.

An act for the preventing gaming in public houses, passed at the last mentioned session.

An act to prohibit trade and commerce with the eastern Indians, passed 7 October, 1721.

An act to ascertain the time for the redemption of lands mortgaged on condition, or by deed of sale with defeasance, passed 12 George 1.

An act for the calling and electing assemblymen, and their qualifications, passed 1 George 2.

An act in addition to an act, entitled an act for regulating fees, passed 4 George 2.

An act for granting unto his majesty an excise on several liquors, passed 5 George 2.

An act in addition to an act, entitled an act for the suppressing disorders in licensed houses, passed 4 George 2.

An act more effectually to prevent the counterfeiting the bills of credit on this province, passed 12 George 2.

An act for the more easy and speedy assessing and collecting the provincial rates and taxes, passed 12 George 2.

An act for the preservation and increase of deer within this province, passed 14 George 2.

An act in addition to, and for rendering more effectual, an act entitled, an act for regulating townships, choice of town officers, and setting forth the power, passed 17 George 2.

An act for altering the time of the sitting of the governor and council, as a court of appeals, in the month of November, and of holding the superior court of judicature, and for empowering and enabling the court of general sessions of the peace within the province of New-Hampshire, to adjourn, passed 26 Geo. 2.

An act to enforce the assessing and collecting of rates and taxes, passed 26 George 2d.

An act for the suppressing of lotteries, passed 27 Geo. 2d.

An act in addition to an act, entitled, an act to return able and sufficient jurors to serve in the several courts of justice, and to regulate the election of representatives to serve in the general assembly, within this province, passed 27 Geo. 2.

An act in addition to an act, entitled, an act for the preventing gaming in public houses, passed 27 Geo. 2.

An act in addition to an act, entitled, an act to enforce the assessing and collecting of rates and taxes, made and passed in the twenty-seventh year of his majesty's reign, passed 28 Geo. 2.

An act to regulate the making and repairing of fences, between improved land, passed 28 Geo. 2.

An act for the more easy and speedy prosecution of actions of ejectment, and for ascertaining the fees for giving seizin therein, passed 29 Geo. 2.

An act for choosing of grand jurors, and directing their services, passed 27 Geo. 2.

An act directing and regulating the appointment and choice of petit jurors, passed 27 Geo. 2.

An act authorizing the choosing or agreeing with persons to collect the public taxes, and enabling and obliging them to discharge that office in the same manner as constables may and by law are obliged to do, passed 31 Geo. 2.

An act in addition to an act, entitled, an act to prevent fraud in cordwood exposed to sale, made and passed in the 13th year of the reign of her late majesty Queen Anne, passed 31 George 2.

An act to empower watchmen to apprehend and commit disorderly persons, as is therein declared, passed 33 George 2.

An act for setting off debts and mutual demands in suits at law, being the 13th section of the statute of the 2 George the second, chapter 22, and the 5th section of the statute of 8 George 2, chapter 24, passed 5 George 3.

An act to prevent the abatement of writs and loss of actions, pending by the death of any of the parties concerned in them, before final judgment, being the sixth and seventh paragraphs of the statute of the 8 and 9 of William the 3, chapter 11, passed 5 George 3.

An act to enable the selectmen to change highways, and to apply land left for highways, where it is not suitable, and to purchase land suitable for that purpose where it is wanting, passed 6 George 3.

An act for recording all powers of attorney, or instruments, by virtue of which any deeds of conveyance of houses or lands shall be made, or already made but not so recorded, and for preserving affidavits taken in perpetuum rei memoriam, passed 6 George 3.

An act to invest the overseers of the poor with power more effectually to employ them, and to provide for bringing up their children more usefully, passed 6 George 3.

An act in addition to an act, entitled, an act for regulating weights and measures, passed 6 George 3.

An act to authorize any town or towns in this province to build or improve, and establish any house within their respective towns, or in any of them, as two or more may agree, for a house of correction, passed 6 George 3.

An act for dividing this province into counties, and for the more easy administration of justice, published and allowed, 19th March 1771.

An act for reviving and making perpetual an act, entitled an act more effectually to prevent profane cursing and swearing, passed May 8, 1764.

An act to enable the inhabitants of such towns and parishes in this province as have not had a regular method, to call town or parish meetings, or at present have no such method to direct and establish a rule and method for that purpose, passed January 5, 1771.

An act to enable any plaintiff in review of any action against a person not an inhabitant, nor having any estate in this province which can be come at to be attached, to serve the writ on the attorney, or agent of the defendant named in such writ, passed 26 February, 1768.

An act to ascertain the value of the premiums to be given for killing wolves, passed January 16, 1771.

An act to regulate the fine set on persons chosen to the office of constable, and refusing to serve in said office, passed 16 January, 1771.

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An act to ascertain and regulate the penalties set and imposed in an act of this province against trespassing in town commons, &c. passed 16 January 1771.

An act to ascertain the fines to be demanded and taken of jurors not attending their duty, passed 16 January, 1771.

An act in addition to an act, made in the fifth year of the reign of King George the first, entitled an act for regulating townships, choice of town officers, and setting forth their power.

An act to restrain the taking excessive usury, passed March 1769.

An act for establishing courts of law for the administration of justice within this colony, passed July 5, 1776.

An act for establishing the stile of commissions which shall hereafter be issued, and for altering the stile of writs, processes and all law proceedings within this colony, and for directing how recognizances to the use of this colony shall in future be taken and prosecuted, passed July 3, 1776.

An act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs; and for repealing certain acts herein after mentioned, with all the acts therein mentioned, and all the acts and laws therein and thereby repealed, and all the acts relative to making rates and taxes, the said act was passed 7 February, 1789.

An act to remove any doubts that have, or may arise concerning the legality of any taxes granted by the late congress for this colony, and to enforce the payment of taxes in future, passed June 28, 1776.

An act for the better regulating marriages, and for punishing the neglect of registering births and burials, passed July 3, 1776.

An act to invest the overseers of the poor with power more effectually to employ them, and to provide for bringing up their children more usefully, passed July 2, 1776.

An act for the punishment of forgery, passed 16th December 1771.

An act to vest the property of forfeitures and fines that shall arise and be incurred by law within any of the counties in this province, as also the money for licenses for liberty to sell spirituous liquors, which by law used to be paid into the public treasury of the province, and applied to the use of the province, to vest the same in the inhabitants of the respective counties aforesaid, to be applied for the use of the counties, and to authorize the county treasurer to issue his extents as the province treasurer may do by law, passed January 30, 1772.

An act fixing the times and places for holding the courts in the counties of Strafford and Grafton, passed February 5, 1773.

An act for the better preventing of criminals avoiding of justice, passed May 28, 1773.

An act for limiting the time of prosecuting appeals to the court of supreme probate, passed May 27, 1774.

An act for regulating the choice of county treasurers and recorders of deeds in the several counties in said State, passed December 13, 1776.

An act for preventing and punishing such offences against the State, as do not amount to treason or misprision of treason, passed January 17, 1777.

An act against treason and misprision of treason, and for regulating trials in such cases, and for directing the mode of executing judgments against persons convicted of those crimes, passed January 17, 1777.

An act to prevent the desertion of soldiers, during the present war with Great-Britain, the concealment of deserters, and also the embezzlement of clothes, arms, &c. belonging to the United States of America, passed March 12, 1777.

An act for the re-establishing the general system of laws heretofore in force in this State, passed April 9, 1777.

An act to prevent the transfer or conveyance of the estates and property of all such persons who have been or shall be apprehended for counterfeiting or fraudulently

fraudulently passing any counterfeit bills, notes or currency of this State, or of the United States of America, or either of them, or of the United States lottery tickets, or the loan office certificates, and also of the estates and property of all such persons, against whom warrants have issued, or may issue, for being guilty of either of said offences, and that have absconded, or that shall hereafter abscond, passed June 25, 1777.

An act to oblige the members of the council and house of representatives, all officers, civil and military, barristers and attornies at law to take and subscribe an oath of fidelity to the State, passed Nov. 8, 1777.

An act in addition to an act, entitled, an act to oblige the members of the council and house of representatives all officers civil and military, barristers and attornies at law, to take and subscribe an oath of fidelity to the State, passed in the late general assembly of this State, Nov. 8, 1777, passed March 14, 1778.

An act for altering the time of the sitting of the inferior court of common pleas, in and for the county of Rockingham, from the last Tuesday of February, to the first Tuesday of February annually, passed Nov. 19, 1777.

An act to alter the time of the sitting of the court of general sessions of the peace, within and for the county of Rockingham, in the month of February annually, passed Nov. 25, 1777.

An act in addition to the laws of this State, now in force, for preventing trespasses, passed March 13, 1778.

An act for establishing a naval office at Portsmouth, in the county of Rockingham, and for regulating the trade and navigation of this State, passed November 26, 1778.

An act in addition to an act entitled, an act for establishing courts of law for the administration of justice within this colony, passed November 27, 1778.

An act for repealing the laws relating to wolves, and for fixing the sums hereafter to be given for killing wolves, passed November 28, 1778.

An act to repeal sundry acts of this State, relating to taverners, innholders, retailers and common victuallers and for regulating taverns, inns and retailers within said State, passed December 26, 1778.

An act to enable selectmen or town clerks to swear town officers, passed April 1779.

An act for altering of the time of holding of the inferior court of common pleas, and court of general sessions of the peace within the county of Strafford, passed June 25, 1779.

An act to allow appeals to Congress in certain maritime causes, passed November 18, 1779.

An act for the better preventing criminal offenders from avoiding justice, passed March 10, 1780.

An act for disposing of such prisoners as have been, or hereafter may be taken by the land or sea forces of this State, passed March 18, 1780.

An act to authorize the treasurer of this State, and the Treasurers of the several counties within this State to issue their executions for levying State and county taxes respectively, against individuals in certain towns and places in this State, passed April 6, 1781.

An act to repeal certain clauses in an act passed in the year of our Lord 1773, entitled, an act for fixing the times and places for holding the courts in the counties of Strafford and Grafton, and for making an addition to said act, passed April 4, 1781.

An act to repeal a certain clause of an act entitled, an act to repeal sundry laws of this State, relating to taverns, inns and retailers within this State, passed December 26, 1778—Additional act passed March 30, 1781.

An act in addition to the law already in force for the regulation of wine, passed April 6, 1781;

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An act in addition to an act of this State, entitled, an act against treason and misprision of treason and for regulating trials in such cases, and for directing the mode of executing judgments against persons convicted of those crimes; and also in addition to an act entitled, an act for preventing and punishing such offences against this State as do not amount to treason or misprision of treason, passed 6 April 1781.

An act in addition to an act for establishing a naval office in Portsmouth, in the county of Rockingham, and for regulating the trade and navigation of this State, passed July 4, 1781.

An act for granting an excise on several sorts of liquors for the use of this State, passed September 1, 1781.

An act for preventing the subjects of his Britannic majesty, and all other persons inimical to the United States of North America, from prosecuting actions, serving as jurors, or acting as town officers within this State, passed November 28, 1781.

An act for repealing all the laws heretofore made by the province, colony or State of New-Hampshire, relative to killing wolves, and for fixing the premiums hereafter to be given for killing those animals, passed January 17, 1782.

An act in addition to and amendment of an act, entitled an act for repealing all the laws heretofore made by the province, colony or State of New-Hampshire relating to killing wolves, and for fixing the premiums hereafter to be given for killing those animals, passed January 17, 1782.—The additional act passed November 10, 1785.

An act for altering the time of holding the inferior courts of common pleas and courts of general sessions of the peace in the county of Strafford, passed March 22, 1782.

An act in addition to and alteration of an act, entitled, an act for establishing courts of law for the administration of justice within this colony, passed March 25, 1782.

An act for the ease and relief of prisoners for debt, passed June 21, 1782.

An act to encourage the taking up, and securing all such British prisoners of war taken from the enemy who have escaped, or shall hereafter escape from the places of their confinement, and for punishing those persons who are aiding or assisting them therein, passed June 27, 1782.

An act for the encouraging of the taking up and securing deserters from the New-Hampshire line of the continental army, and for punishing those persons who harbor or secret them, knowing them to be such, passed June 27, 1782.

An act in addition to an act, entitled, an act for granting an excise on several sorts of liquors for the use of this State—the said additional act passed December 1782.

An act to authorize the congress of the United States of America, to levy a duty not exceeding five per centum upon goods imported into, and prizes condemned within this State, passed 6 April 1781.

An act for granting to the United States in congress assembled, certain imposts and duties upon foreign goods imported into this State; and for the purpose of paying the principal and interest of the debt contracted in the prosecution of the late war with Great-Britain, passed 2 January 1784.

An act for altering sundry articles in the table of fees now established and used in this State, passed 3 January 1784.

An act in addition to an act, entitled, an act for the ease and relief of prisoners for debt, passed 3 January 1784.

An act in addition to an act, entitled, an act for the ease and relief of prisoners for debt, made and passed 21 June 1782—This additional act passed June 1789.

An act in addition to and amendment of the acts establishing a table of fees, passed 16 January 1787. And all acts heretofore passed establishing fees.

An act for establishing a light-house, passed 16 April 1784.

An act in addition to an act, entitled, an act for establishing a light-house, passed April the 16th, 1784.—The additional act passed 11 November 1784.

An act to alter and extend the act about powder money, passed April 16, 1784.

An act for laying an impost duty on sundry goods imported into this State, passed 17 April 1784.

An act to invest the United States in congress assembled, with additional powers for a limited time, passed November 5, 1784.

An act to vest the United States in congress assembled, with full power to regulate trade and enter into treaties of commerce, passed June 23, 1785.

An act to vest the United States in congress assembled, with full powers to regulate commerce, passed June 19, 1786.

An act to vest the United States in congress assembled with full power to regulate trade, and enter into treaties of commerce, passed December 28, 1786.

An act in addition to an act, entitled, An act for the equal distribution of insolvent estates.—The additional act passed November 11, 1784.

An act to alter and establish the times and places of holding the several courts of judicature within this State, passed February 17, 1785.

An act for the regulation of navigation and commerce, passed June 23, 1785.

An act for altering the time of holding the inferior court of common pleas, holden by law on the first Tuesday of June annually at Portsmouth in and for the county of Rockingham, passed March 3, 1786.

An act to prevent unnecessary costs to debtors by creditors bringing actions of debts on judgments where such creditors might have availed themselves of execution on the same judgments, passed June 23, 1786.

An act to empower the several towns and parishes in this State, to choose new constables and collectors in the room of such constables and collectors as have deceased, or may hereafter de cease, or have absconded or shall hereafter abscond without completing the collection of the taxes committed to them, and to authorize such new elected constables and collectors to complete such collection, passed December 25, 1786.

An act for extending the powers and authority of the maritime court in this State, passed January 12, 1787.

An act to enable three justices of the peace unus quorum to determine all disputes concerning the maintenance of the poor, passed June 19th, 1787.

An act to set off mutual executions against each other, passed June 21, 1787.

An act for altering the time of the sitting of the inferior court of common pleas, and the court of general sessions of the peace at Charlestown in the county of Cheshire, passed June 23, 1787.

An act in addition to and explanation of an act entitled, an act for granting an excise on several sorts of liquors for the use of this State, passed June 27, 1787.

An act in addition to an act for setting off debts and mutual demands, passed June 27, 1787.

An act in addition to and in explanation of an act, entitled, an act relating to constables collecting rates and assessments, passed September 27, 1787.

An act to raise a revenue to this State by excise, passed September 28, 1787.

An act for reducing the number of terms for holding the court of general sessions of the peace within the several counties in this State, passed February 7, 1789.

An act in addition to an act entitled, an act for the ease and relief of prisoners for debt, made and passed June 21, 1782—Additional act passed June 10, 1789.

An act to facilitate the collection of taxes, passed June 13, 1789.

An act directing the mode of filling summonses in civil actions, passed June 19th, 1789.

An act in addition to the laws now in force, providing for the support and maintenance of the poor, passed January 22d, 1790.

An act for laying out highways, passed February 27th, 1786.

And be it further enacted, That, that part of an act made and passed by the general court of said State, on the first day of September, in the year of our Lord, one thousand seven hundred and eighty-one, entitled, an act for making gold and silver a tender for all debts, and for settling the depreciation of the paper currency, and for the future regulation of the courts of justice in this State,—which is contained and expressed in the words following, namely, and to discourage the multiplying of suits, *Be it enacted by the authority aforesaid*, That the justices of the several courts within this State be, and they hereby are empowered to continue and suspend giving judgment upon any suits or actions brought before them for recovery of debts due on contracts from time to time, not exceeding the term of two years as they shall judge reasonable, upon considering the respective circumstances of each suit, unless the creditor shall chuse to have judgment rendered in bills of the new emission; in which case the judges of the several courts are hereby empowered to make up judgment after the rate of a dollar and seven eighths of a dollar in said bills, for one Spanish milled dollar.

And whereas securities are often given for other articles besides money, and in this scarcity of gold and silver, it may be very injurious to debtors to be obliged immediately to raise gold and silver to discharge the same.—*Be it therefore enacted*, That in such cases it shall and may be lawful for the several courts in making up judgment, to order the debtors to deliver the articles specified in their respective securities, by a certain day, not exceeding the term of three months from the time of giving judgment, and in default, that execution shall issue for the value in silver and gold.

And be it further enacted by the authority aforesaid, That the fees taken by the courts and officers of this State be the same as were established by an act of the legislature of the late province of New-Hampshire, passed the 12th day of March, 1768, entitled, an act in amendment of the acts for establishing fees belonging to the several officers in this province,—be and the same is hereby repealed.

Provided always, That this act shall not take effect until the fifteenth day of September next, at which time it shall be in full force.

Provided nevertheless, That the aforesaid repealed acts or laws shall be in full force as to all matters done or transacted during their existence, to which they relate, to all intents and purposes as though the repealing act aforesaid had not been made. And all such matters may be prosecuted, commenced, done and compleated at any time hereafter, pursuant to the same laws; except however, the act before mentioned, entitled, an act to prevent incestuous marriages, which shall be considered as repealed from and after the seventeenth day of June, in the year of our Lord, one thousand, seven hundred and ninety-one.

This act passed June 20, 1792.

The following Acts were passed at a session of the Hon. General Court began and holden at Concord December 1796, (at which time this Edition of the Laws was nearly finished, therefore they could not be arranged in their proper places.)

AN ACT for taxing the lands and buildings of non-residents. Approved Dec. 16, 1796.

BE it enacted by the Senate and House of Representatives in General Court convened, That the improved lands and buildings of non-resident owners shall hereafter be taxed in the respective towns and places where such lands are situated, their equal proportion with residents, in all assessments made for the support of the public highways and schools, and in all town taxes, except for the support of the gospel, and the building of houses of public worship, and repairs thereof, to be collected in the same manner as the law now points out for the collection of state and county taxes.

And be it further enacted, That the unimproved lands of non-residents, public lands excepted, shall hereafter be taxed in the respective towns and places their equal proportion of all State and county taxes, and assessments made for the support of public highways. Provided always, That the tax on the unimproved lands of non-residents for the support of public highways, shall not in any one year exceed the sum of fifty cents on every hundred dollars of the appraised value of said lands, which appraisement shall be made by the selectmen, and be in the same manner and proportion as the law now points out for appraising the unimproved lands of the residents, to be assessed and collected in manner following, to wit: The selectmen or assessors, in their respective towns and places, shall make out in writing, under their hands, and deliver the same to the several collectors, on or before the thirtieth day of May annually, a list of all such assessments, and insert therein the name of the owner, if known, otherwise the name of the original proprietor, and the number of acres taxed, and the number of the lot and range, and the proportion of

of each assessment to each lot or tract of land taxed, shall be set against said lot or tract of land in the list aforesaid : And if any building of a non-resident shall be taxed, the number of the lot, or other description of the land whereon it stands, shall be mentioned in said list : And if the name of the owner and the original proprietor of any land be unknown, the quantity of land, the number of the range and lot, if lotted, otherwise such description of the land taxed as it is usually known by, being inserted in said list, shall be a sufficient description of said land.

Non residents liberty to pay in labor.

And be it further enacted, That each non-resident, taxed as aforesaid in any town or place in this State, shall at any time from the making of said highway-tax to the first day of September in the same year, have liberty to pay said tax in labor, at the rate of six cents per hour for an able bodied man, finding his own tools and diet ; which labor shall be done under the direction of either of the selectmen of the town where said labor is to be done, whenever the said non-resident shall tender the same to the said selectman within the time limited for that purpose.

Collectors to deliver, &c.

And be it further enacted, That every collector of said taxes shall, on or before the eighth day of the next session of the General Court after the assessment of such taxes, deliver to the deputy secretary for the time being, a copy of his list of all such taxes made out as aforesaid, signed by the selectmen of the town or place for which he is collector : And the said deputy secretary shall, for the inspection of all persons concerned, keep said list during the remainder of said session, at the place where said court shall be holden and afterwards, until the first day of September next following the said session, in the town where he shall reside : And it shall be the duty of the said deputy secretary, whilst said lists shall be in his hands, to receive of any non-resident his proportion of said taxes, and give his receipt in discharge of the same to the said non-resident, who shall pay to the said deputy secretary, for his trouble, at the rate of ten per cent on the sum paid by the said non-resident to the said deputy secretary for taxes : And the said deputy secretary shall, at any time after the said first day of September, on application made to him by a collector

of any of the taxes aforesaid, or by his order, return to said collector a copy of his list aforesaid, and the money which he shall have received thereon, taking said collector's receipt for the same : And after the said first day of September, any of said collectors who may have received copies of their lists from said deputy secretary, shall publish a notification in the New-Hampshire Gazette, and also in some newspaper published in the county where the land is situated, if any such paper be printed in said county, otherwise in some adjacent county, and a similar advertisement posted up in some public place in the town or place where the lands lie, three weeks successively, commencing eight weeks prior to the day of sale, that so much of such delinquent owner's estate will be sold at public vendue, as will be sufficient to pay his said taxes, with incidental charges, unless prevented by previous payment ; and the said notification shall contain the same description of the land taxed, as this act requires should be made in the lists aforesaid ; also the time and place of sale : And if any of said owners shall neglect to pay their proportion of said taxes, with incidental charges, until the time of sale, the said collector shall then sell at public auction to the highest bidder, so much of each delinquent's estate as will pay said taxes, with incidental charges : *Provided*, That every sale by virtue of this act shall be made in the town or place where the property sold shall be situated, and between the hours of ten of the clock in the forenoon and six of the clock in the afternoon of the same day ; and if necessary, the sale may be adjourned from day to day, not exceeding three days, by public proclamation made within the hours aforesaid at the place of sale ; and no person shall be holden to pay any part of the cost which shall accrue at said auction, after the tender of the payment of his own taxes, with his proportion of the cost which shall have accrued before such tender.

And be it further enacted, That if any more than one person shall be interested in any lot or tract of land, each one may pay his proportion of taxes according to his interest in said land, and the share of the delinquent only shall be sold.

Each one to pay his proportion.

And

Liberty of
redemption,

And be it further enacted, That each non-resident, his heirs or assigns, shall have the liberty of redeeming his land sold as aforesaid, at any time within one year from the sale thereof, by paying or tendering to the collector, his executor or administrator, or in their absence, by tendering at the usual place of abode of said collector, his executor or administrator, a sum of money equal to that for which said land was sold, with interest for the same until the time of payment or tender as aforesaid: And it shall be the duty of said collector, to deliver to the clerk of the town where the land lies, an attested copy of the sale of lands by him sold in virtue of this act, with the charges of sale, within ten days after the sale thereof, to be by him kept on file; and in case of absence of said collector, his executor or administrator, on tender being made at his usual place of abode as aforesaid, said non-resident shall give information thereof to said town clerk before the time of redemption expires, who shall without delay record the same in his office; and said non-resident shall leave the money so tendered, with said town clerk, for the use of said collector, at the time of giving such information: And it shall be the duty of said collector, his executor or administrator, on payment or tender as aforesaid, or of the town clerk on the money being left with him, to give said non-resident a full discharge therefor, by receipt under his hand; and in case of the money being received by the town clerk as aforesaid, he shall be paid therefor by said non-resident, ten per cent. on the amount of the money so received.

May redeem

And be it further enacted, That when two or more persons are interested in any lot or tract of land which shall be hereafter sold for the payment of taxes made by virtue of this act, every individual may redeem his own part thereof, by paying or tendering his proportion of the taxes and cost for which the said land was sold, in the same manner that all the owners of such land may redeem their land sold as aforesaid, by jointly paying the whole sum necessary to be paid for the redemption of the same; and the said proportion shall be made according to the number of acres in the lot or tract of land sold.

And

And be it further enacted, That when any estate of non-residents shall be sold by virtue of this act, and the money requisite for the redemption thereof shall not have been paid or tendered within one year from the sale of the same, the collector who shall have sold said estate, if living, otherwise his executor or administrator, shall then execute a good and sufficient deed of such estate to the purchaser of the same, if he shall be then living, otherwise to his heirs, executors or administrators; which deed shall be in the form following to wit:

Collectors to execute a deed.

KNOW all men by these presents, That I, collector of taxes for the town of _____, in the county of _____, in the State of New-Hampshire, for the year _____, do, by virtue of the authority in me vested by the laws of this State respecting the property of non-residents, and in consideration of _____, to me in hand, before the delivery hereof, paid by _____, of _____, in the county of _____, in the State of _____, hereby sell and convey to him the said _____, his heirs and assigns, [*here describe the property sold.*]

Form of deed.

To have and to hold the said granted premises, with the appurtenances thereof, free of all incumbrances to him the said _____, his heirs and assigns forever. And I the said _____, do hereby covenant with the said _____, that I have, in my said capacity, good right to sell and convey the same in manner aforesaid: And that I will warrant and defend the same to him the said _____, his heirs and assigns, against the lawful claims and demands of all persons whomsoever.

In witness whereof, I have hereunto set my hand and seal, this _____ day of _____, Anno Domini,

Signed, sealed and delivered

in the presence of us,

And be it further enacted, That no town or place which has been authorized by a special act to tax the lands of non-residents for the support of public highways, shall be enabled hereby to tax the unimproved lands of non-residents for that purpose, within two years from the passing of such special act.

No town to tax unimproved lands &c.

And be it further enacted, That the inhabitants of any town, at their annual meeting, if an article be inserted in the warrant for that purpose, may exempt the unimproved lands of non-residents from all or any part of the taxes aforesaid.

Towns may exempt, &c.

And

Repealing
clause.

And be it further enacted, That such parts of all acts heretofore passed, as relate to assessments made by any town or place on the unimproved land of non-residents, for the payment of State and county taxes, be, and they hereby are repealed.

Proviso.

Provided nevertheless, That nothing herein shall affect the collection of any taxes heretofore made by virtue of any acts hereby repealed,

Duty of several officers

Provided also, That it shall be the duty of the deputy secretary, the town clerks, and collectors to receive from any person, when tendered in behalf of himself or any other person whomsoever, in the manner and at the times before pointed out in this act, the taxes assessed by virtue thereof, and interest and costs thereon, if any; any thing in this act to the contrary notwithstanding.

Duty of Selectmen.

And be it further enacted, That it shall be the duty of the selectmen or assessors of the several towns and places in this State, to see that all monies arising by virtue of this act, for the support of public highways, be duly and seasonably appropriated agreeably to the true intent and meaning thereof.

Approved Dec. 10, 1796.

Approved
Dec. 15,
1796.

AN ACT to establish the fees of collectors in the sale of non-resident lands for taxes.

Fees.

BE it therefore enacted by the Senate and House of Representatives in General Court convened, That the fees of the several collectors in this State, in the sale of non-resident lands for taxes, shall be as follows to wit: for going to the deputy secretary for the copy of the list, from thence to the place where the advertisements for sale are to be printed, and returning home, five cents per mile; for advertising in the county paper and in the town, one dollar, for making the sale one dollar per day and the same sum for clerk; for each deed made and executed to purchasers twenty-five cents, the sums of money actually paid to the printers and the deputy secretary for the copy of the list, shall also be a legal charge; and shall be the duty of each collector to make out an equal proportion of the cost taxed as herein before directed

Cost proportioned.

directed, to each lot or tract of land sold or advertised as aforesaid.

And be it further enacted, That if any collector shall demand or take any greater fee or fees for any of the services mentioned in this act, he or they shall forfeit and pay the sum of five dollars to the person suing therefor, to be recovered by action of debt in any court proper to try the same, besides being liable to an action of damages by and for the party injured, to recover back the sum or sums so unlawfully taken.

Penalty-

Approved Dec. 15, 1796.

AN ACT regulating fees.

Approved
Dec. 16,
1796.

BE it enacted by the Senate and House of Representatives in General Court convened, That the fees of the several officers and other persons herein after mentioned, shall be as follows, to wit :

Fees of the justices of the peace in civil causes.

For every writ of summons or writ of attachment with summons, seventeen cents ; for every writ of subpoena ten cents ; for the entry of every action on complaint including filing the papers, entering judgment and appearance and recording sixty cents ; for every execution twenty-five cents ; for granting an appeal seventeen cents ; for entering satisfaction of a judgment on record ten cents ; for taking affidavits out of court, thirty-four cents for swearing each witness and making the caption, and seventeen cents for writing each page of the deposition, and for the justices travel to swear witnesses at the rate of thirty-four cents for every ten miles actual travel ; the justices fees for travel and taking affidavits and the witnesses travel and attendance shall be certified by the justice in the affidavit, otherwise the justice shall not be allowed any thing for his fees ; for taking affidavits in perpetuum, the same fees to each justice as for the taking other depositions ; for taking and certifying the acknowledgment of any deed or other instrument seventeen cents, but if there be more than one person who shall acknowledge the same instrument and the acknowledgment be made at different times, then seventeen cents for each time of taking and certifying ; for granting warrant of appraisement and swearing the appraisers twenty-five cents ; for every

In civil
causes.

H h h

actual

actual trial upon issue joined either upon matter of law or fact fifty cents ; for administering oaths in all other cases, and certifying the same (except the oaths of office administered to town officers, and oaths administered to witnesses in the trial of causes before the justice) seventeen cents.

Fees of justices of the peace in criminal causes.

In criminal.

For every warrant founded on a complaint for any offence twenty-five cents ; for drawing a complaint thirty-four cents ; for granting an appeal seventeen cents ; for every recognizance seventeen cents ; for taking bail of persons committed in criminal causes thirty-four cents for each offender ; for every examination thirty-four cents ; for every entry of a complaint and judgment thereon, fifty cents ; for warrant of commitment and every other warrant, except those above mentioned fifty cents, and for every adjournment seventeen cents.

In cases of forcible entry and detainer.

Forcible entry, &c.

The justices for every days attendance one dollar each, to the witnesses and parties the same as in other cases ; to the jurors sixty cents per day for their attendance, and the same travel as jurors at the superior court ; to the sheriff one dollar per day.

Fees of the justices of the court of common pleas.

Common pleas.

For every action, petition or complaint entered in the court of common pleas, the justices thereof shall be paid ninety cents ; for every appeal seventeen cents ; for receiving the proof of a deed in court twenty-five cents ; for granting a writ of protection seventeen cents.

Fees of the clerk of the court of common pleas.

Clerk of common pleas.

For every action, petition or complaint entered in the court of common pleas, the clerk thereof shall receive sixty cents, in full for entry, verdict, nonsuit or default, judgment, recording, and every other service relative to such action, petition or complaint for which no fees are otherwise particularly prescribed by this act ; the said clerk paying thereout the crier's and sheriff's fees for default or nonsuit, said sum together with ninety cents for the justices, to be paid at the time of entry ; for a blank writ and summons ten cents ; for a writ of protection twelve and an half cents ; for each execution seventeen cents ; for entering

tering satisfaction of a judgment six cents; for entering a continuance twelve and an half cents; for each venire to be paid out of the county treasury four cents; for every writ of possession twenty-five cents; for each writ of subpoena ten cents.

Fees of the justices of the superior court.

For the entry of every action, petition or complaint at the superior court, the justices thereof shall be paid two dollars, except in appeal from a justice of the peace, which entry shall be one dollar and fifty cents only; for taking special bail thirty-four cents; for a writ of habeas corpus twenty-five cents; for allowing a bill of cost twelve and an half cents; for granting a writ of protection seventeen cents; for every deed proved in court seventeen cents; for allowing a writ of error seventeen cents; for every acknowledgment of satisfaction of a judgment on record seventeen cents.

Justices superior court.

Fees of the clerk of the superior court.

For the entry of every action or petition sixty-seven cents; for entry of a complaint for not prosecuting an appeal thirty-four cents; for entering a judgment and recording it at large thirty-four cents; for a writ of review fifty cents; for a writ of scire facias fifty cents; for a writ of execution twenty-five cents; for a writ of possession fifty-eight cents; for a writ of habeas corpus thirty-four cents; for entering an appearance at the request of any party ten cents; for entering a satisfaction of a judgment on record twelve cents and an half; for entering a continuance seventeen cents; for filing papers two cents each; for certifying the proof of a deed in court seventeen cents; for each venire on certificate of the justices of the superior court four cents, to be paid out of the county treasury; for a subpoena seventeen cents; for every recognizance seventeen cents; for every writ of protection seventeen cents; for discharging a recognizance seventeen cents.

Clerk.

Sheriff's fees.

For the service of a writ of summons or scire facias, either by reading it to the defendant or leaving a copy twenty-three cents for each defendant; for the service of a writ of attachment with or without a summons twenty-three cents for each defendant; for

Sheriffs.

a bail bond to be paid by the person bailed, seventeen cents; for the service of a writ of possession, the same as for the service of the original writ on which it was obtained, with poundage for the costs as in personal actions; for levying executions in personal actions and extents two and an half cents on the dollar for the first fifty dollars, two cents on the dollar for the second fifty dollars, one cent on the dollar for all sums from one hundred dollars to three hundred dollars; for all sums above three hundred dollars, a half cent on each dollar; the poundage on extents to be taken in the same paper bills, notes, orders or certificates as the same extents issued for; for travel for the service of each writ, execution or extent three cents per mile, the travel to be computed from the place of service to the office, place or court to which the writ is returnable by the way most commonly used, and where there are several persons in the same writ, execution or extent upon whom it is served, the travel shall be computed from the remotest of them, and no more to be allowed for travel than if it were served only on the remotest person as aforesaid; provided that no more than fifty miles travel shall be allowed the sheriff or other officer serving any writ, execution or extent in any case, the travelling fees and fees of service to be endorsed on the writ in mesne process, and no more shall be allowed in any case than is so endorsed, and also the fees for service, poundage and travel on executions and extents, shall be particularly set down and expressed thereon; for summoning witnesses seventeen cents; for serving a writ of execution for partition of real estate, on a judgment of court eighty-three cents per day, and for travel and expences four and an half cents per mile; for every trial eleven cents to be paid with jurors fees for every default six cents; for attending the grand jury thirty-four cents per day; for attending the petit jury twelve and an half cents each case, to be paid with the jurors fees; for dispersing venires four cents each, to be paid out of the county treasury; for dispersing proclamations to be paid out of the county treasury four cents each.

Coroner's fees.

Coroner.

For serving writs, the same fee for travel and service

as to the sheriffs ; for every trial where the sheriff is concerned eleven cents ; to be paid with the jurys fees ; for taking an inquisition one dollar and fifty cents ; to the foreman of the jury fifty cents, and other jurors forty-two cents per day, and twenty cents for every ten miles travel ; to the constable, his expences in summoning the jury of inquest, and attendance sixty-seven cents per day ; all fees attending any inquisition on the death of any person shall be paid out of the estate of the deceased, and in want thereof by the county treasurer, the same being adjusted and allowed by the court of common pleas.

Constable's fees.

For service of writs, warrants and executions, and for travel the same as to the sheriff. Constables:

Crier's fees.

For every default or nonsuit eleven cents ; for every verdict to be paid with the jurys fees eleven cents. Criers.

Judge of probate and registers fees.

For granting administration or guardianship one dollar including the bonds, letters of administration and guardianship, whereof two thirds to the register, and if more than one minor be put under the same guardian at the same time, then for every such one to the judge ten cents, and to the register twenty cents ; for taking the proof of a will or codicil, entering the oaths of the witnesses and certifying the same, and recording the whole, if but one page one dollar forty cents, to be equally divided between the judge and register, if more than one page then the same for recording every such page as in other cases, to the register only ; for examining accounts of executors, administrators or guardians thirty-four cents a page ; for allowing and making a decree on such accounts fifty cents ; for every allowance and confirmation of the division of any real estate fifty cents ; for every citation seventeen cents to the register, and to the judge seventeen cents ; for every order or warrant for dividing real estate seventeen cents to the judge, and thirty-four cents to the register ; for every commission to examine claims to insolvent estates thirty-four cents to the register, and seventeen cents to the judge ; for every licence to sell real or personal estate fifty cents, one half to the judge and the other half to the register ;

Judge probate, &c.

register ; for making the proportion among the creditors to an insolvent estate to be allowed one dollar for every twenty creditors, and in that proportion for a greater number ; to the judge for a decree or order to the executor or administrator to pay the several creditors according to the computation and proportion aforesaid thirty-four cents ; for a quietus seventeen cents to the judge, and seventeen cents to the register ; for attending a dispute concerning the right of parties in any case, and an hearing by council including the decree thereon, fifty cents to the judge and fifty cents to the register ; for granting an appeal to the supreme court of probate, and taking bond for prosecution fifty cents to be equally divided between the judge and register ; for passing an order for putting any bond in suit, thirty-four cents to be equally divided between the judge and register, and fifty cents for taking a bond of indemnification, one half to the judge and the other half to the register.

Fees in the secretary's office.

Secretaries.

For every commission for any person to an office of profit to be paid by the person commissioned one dollar ; for every certificate under the seal of the State fifty cents ; for every military commission to be paid out of the public treasury fifty cents ; for each petition of a private nature to the general court fifty cents to be paid by the petitioner.

Gaoler's fees.

Gaolers.

For receiving any prisoner into custody twenty-five cents, and the like fee for discharging the prisoner ; to each prisoners diet one dollar and twelve cents per week.

Grand juror's fees.

Grand jurors.

To the grand jurors sixty-seven cents per day, to be paid out of the county treasury, and four cents per mile for their travel to and from court.

Petit juror's fees.

Petit.

To the foreman in every cause at the superior court fifty cents, each other juror forty cents ; and at the court of common pleas, to the foreman in each case forty-five cents ; and to each other juror forty cents ; and each petit juror attending either of the courts aforesaid, shall be paid out of the treasury of the county where

where laid court is holden, six cents per mile for his travel to and from court.

Parties and witnesses fees.

The witnesses before any justice of the peace, and at any of the courts aforesaid, shall be allowed for each days attendance forty cents, and for every ten miles travel out and in forty cents, a ferry or toll bridge to be reckoned as three miles travel, and in the same proportion for a less number of miles; the parties attending the courts aforesaid, for each days attendance twenty-five cents, and twenty-five cents for ten miles travel to and from court; to the party for summoning witnesses, the same as to the sheriff when he does it, seventeen cents each witness.

Parties and witnesses.

Every plaintiff in his bill of cost in cases where the defendant is defaulted, never having made any appearance or defence shall be allowed no more traveling fees than for what he travels in the county where the court is holden in the most usual way of traveling from the place where he lives to the court.

Provided nevertheless, That the plaintiff or defendant in any case whatever, shall be entitled to no more travel than from the line of the county, unless in cases of his appearance in person.

Fees of Notary Public.

For every protest under seal one dollar; for every certificate under seal fifty cents; for waiting on a person to demand payment or to witness any matter, and certifying the same under seal, one dollar.

Notarys.

Attorney's fees.

There shall be allowed in every bill of cost taxed for the plaintiff in the court of common pleas, the case originating there, one dollar and thirty-four cents for the writ, including the declaration and attorney's fees, and to the defendant recovering cost in said court and the party, whether plaintiff or defendant recovering costs on an appeal from a justice of the peace there shall be taxed one dollar and ten cents for attorney's fees; for the party recovering a bill of cost at the superior court for attorney's fees two dollars; for every complaint entered at the superior court, including drawing the complaint one dollar and thirty-four cents; attorney's fee for drawing a writ triable before a justice of the peace fifty cents; attorney's fee

Attornies.

fee for pleading for a defendant before a justice of the peace fifty cents; drawing a complaint for discontinuance of an action before a justice of the peace fifty cents; to the secretary of the State, the clerk of the superior court of judicature, clerk of the court of common pleas, justices of the peace, register of deeds, register of probate, town clerks, notaries public, sheriffs and all other persons whose duty it may be by law to give any copies, or to record any proceedings other than such for which particular fees are or shall be established, there shall be allowed twelve cents and an half for every page so recorded or copied, reckoning two hundred and twenty-four words for a page, and any part less than a page eight cents, and for every certificate on a copy of the whole case ten cents.

Fees of the recorder of deeds.

Recorders. For a certificate on a deed of the time when and the place where recorded, and for every other certificate by him made, four cents; for examining the records at the request of any person four cents for each book examined; for discharging a mortgage on the record as the law directs seventeen cents.

Penalty. *And be it further enacted,* That if any person or persons shall demand and take any greater fee or fees for any of the services mentioned in this act, or any other law of this State, than is herein and thereby provided and declared, he or they shall forfeit and pay to the person or persons suing for the same, the sum of thirty dollars for every such offence, to be recovered by action of debt in the court of common pleas, besides being liable to an action for damages, by and for the party injured, to recover back the sum or sums so unlawfully taken.

Repealing clause. *And be it further enacted,* That the act entitled "an act regulating fees," passed the ninth day of February, Anno Domini one thousand seven hundred and ninety-one, establishing the rate of fees to be taken by the several officers therein mentioned, be, and the same is hereby repealed. *Provided,* that the foregoing act, or any clause therein contained shall not be in force, or take effect until after the first day of March next, any thing therein contained to the contrary notwithstanding.

Approved December 16, 1796.

AN

AN ACT in addition to an act, entitled, "An act regulating process and trials in civil causes." Approved Dec. 13, 1796.

WHEREAS in said act there is no mode provided, after the service of a writ, and before trial, whereby the defendant can oblige the plaintiff to settle his action, which tends greatly to encrease the cost in civil causes.

For remedy whereof—

BE it enacted by the Senate and House of Representatives in General Court convened, That at any time before the sitting of any court, to which any writ shall be returnable, or at any time before judgment shall be rendered thereon, any defendant who shall make application to the plaintiff's attorney, who brought the action, and actually tender to him the amount of the debt and the lawful costs that may have arisen, such tender shall be a bar to any further process, any usage or custom to the contrary notwithstanding.

Approved Dec. 13, 1796.

AN ACT in addition to an act, entitled, "An act for the ease and relief of persons imprisoned for debt," passed February, one thousand seven hundred and ninety-one. Approved Dec. 13, 1796.

BE it enacted by the Senate and House of Representatives in General Court convened, That from and after the passing of this act, any debtor who shall take the oath prescribed in said act, shall be discharged, unless the creditor, or some other person for him pay the prison keeper weekly one dollar and twelve cents per week for the support and maintenance of such debtor, any law to the contrary notwithstanding.

Approved Dec. 13, 1796.

AN ACT in addition to, and also to make perpetual, an act to enlarge the civil jurisdiction of justices of the peace within this State, and directing constables in certain cases to serve writs and other lawful precepts, passed February 21st, 1794. Approved Dec. 13, 1796.

WHEREAS in and by said act it is provided, that the same should continue and be in force three years from

the passing thereof, and to the end of the next session of the General Court, and no longer :

Therefore,

Made perpetual.

BE it enacted by the Senate and House of Representatives in General Court convened, That said act and every clause thereof continue to be in force in the same way and manner as if no limitation had been made.

No action commenced at common pleas except.

And be it further enacted, That no action shall be commenced at any court of common pleas in this State, except where title of real estate is in question, wherein the sum demanded shall not exceed the sum of thirteen dollars and thirty three cents, any law, usage or custom to the contrary notwithstanding.

Approved December 13, 1796.

Approved Dec. 16, 1796.

AN ACT in addition to an act, entitled, "An act for the more speedy recovery of small debts, and to save cost usually attending the recovery thereof, in the present course of law."

Preamble.

WHEREAS in and by said act, it is enacted, that any two or more persons having a controversy between them of ten pounds value or under, may apply to a justice of the peace, and enter into a rule to refer the same to such person or persons as they may agree upon, but by reason of the sum being limited to ten pounds or under, it is found not to answer the good purposes thereby intended.

Therefore,

200 dollars.

BE it enacted by the Senate and House of Representatives in General Court convened, That instead of ten pounds or under, as limited in and by said act, that two or more persons having a controversy between them of two hundred dollars value or under, may apply to a justice of the peace, and enter into a rule to refer the same to such person or persons as they may agree upon, and the said justice is hereby empowered to receive the report, enter up judgment, and issue execution thereon for damages and cost of suit, provided the damages do not exceed the sum of two hundred dollars, which report being received and judgment entered thereon as aforesaid, the same shall be final and conclusive between the parties, any thing in said act to the contrary notwithstanding.

Approved December 16, 1796.

AN

AN ACT to direct the mode of appointment of deputy sheriffs within this State, and of their dismission from office. Approved Dec. 13, 1796.

BE it enacted by the Senate and House of Representatives in General Court convened, That all deputations or appointments of deputy sheriffs in the several counties within this State, shall be in writing under the hands and seals of the sheriffs of the respective counties for and within which they are, or may be appointed. Mode of deputations.

And be it further enacted, That it shall be the duty of each and every deputy sheriff within this State, to make oath before some justice of the peace for and within the county for which said deputy sheriff is or may be appointed, faithfully to discharge the duties of his office, which oath shall be certified by said justice upon such deputation, and the same deputation, with the certificate thereon, shall be recorded at full length by the clerk of the court of common pleas in the same county, and it shall be the duty of such clerk, upon request made and payment or tender of twenty-five cents, to record the same as aforesaid, in a book or books to be by him kept for that purpose. Deputies to be sworn. Oath to be certified, and recorded. Clerks duty.

And be it further enacted, That from and after the fifteenth day of September next, no service or act of any deputy sheriff, as such, within this State, shall be valid or of force until his deputation or appointment, with the certificate thereon shall have been recorded as aforesaid. No act to be valid until deputation, &c. be recorded.

And be it further enacted, That when any sheriff of any county in this State shall see cause to discharge from office any deputy by him deputed or appointed, such sheriff shall by writing under his hand and seal directed to such deputy, notify him thereof, which notification or discharge shall be served by some other deputy sheriff, or credible person within such county, by reading the same to the said deputy therein named, or giving an attested copy thereof to such deputy so discharged, which said discharge and service thereof, shall be recorded in like manner and for the same fee as in this act is prescribed for the recording of deputations. Deputies how discharged.

And be it further enacted, That the sheriff in each county respectively, shall in all respects be responsible for Sheriff responsible.

for the acts, malfeasance, misfeasance, and nonfeasance of each of his deputies respectively, until such discharge and certificate of the service thereof shall have been recorded as aforesaid.

Proviso.

Provided nevertheless, That a service and return of any legal precept may be made by any person, by virtue of a special deputation endorsed on the back of such precept, in manner and form as has heretofore been in practice in this State, any thing in this act to the contrary notwithstanding.

Approved Dec. 13, 1796.

*Approved
Dec. 15,
1796.*

*Superior
courts.*

*Courts of
common
pleas.*

AN ACT establishing the times and places for holding the superior courts and courts of common pleas.

BE it enacted by the Senate and House of Representatives in General Court convened, That the superior court of judicature for the county of Rockingham be holden at Portsmouth on the first Tuesday of February, and at Exeter on the third Tuesday of September annually. And the superior court of judicature for the county of Strafford shall be holden at Dover on the fourth Tuesday of February, and on the first Tuesday of September annually. And the superior court of judicature for the county of Hillsborough shall be holden at Hopkinton on the first Tuesday of May, and at Amherst on the first Tuesday of October, annually. And the superior court of judicature for the county of Cheshire shall be holden at Charlestown on the third Tuesday of May, and at Keene on the third Tuesday of October, annually. And the superior court of judicature for the county of Grafton shall be holden at Plymouth on the first Tuesday of June, and at Haverhill on the first Tuesday of November, annually. And the court of common pleas for the county of Rockingham shall be holden at Portsmouth on the first Tuesday of January, and at Exeter on the second Tuesday of August annually. And the court of common pleas for the county of Strafford shall be holden at Rochester on the third Tuesday of January, and at Gilmantown on the third Tuesday of August, annually. And the court of common pleas for the county of Hillsborough shall be holden at Amherst on the last Tuesday of March, and at Hopkinton on the first Tuesday of September.

September, annually. And the court of common pleas for the county of Cheshire shall be holden at Keene on the first Tuesday of April, and at Charlestown on the fourth Tuesday of September, annually. And the court of common pleas for the county of Grafton shall be holden at Haverhill on the first Tuesday of March, and at Plymouth on the first Tuesday of September, annually.

And be it further enacted, That all actions, pleas, indictments, informations, complaints, appeals, petitions, libels, writs, venires, inquests, recognizances, verdicts and processes of what name or nature soever, now pending in said courts respectively, or returnable to or sustainable by the same, shall be returned to, sustained by, tried, adjudged and finally determined in said several courts respectively, to which they rightfully and properly appertain, at the times and places by this act fixed for holding said courts, in the same manner as if this act had not been passed; it being the true intent and meaning of the same, not in any way to affect said processes. All actions &c. sustained

And be it further enacted, That all laws now in force for establishing the times and places for holding the superior courts and courts of common pleas, so far as respects the times and places of holding the same, be and they hereby are repealed. Repealing clause.

And this act shall take effect and be in force from and after the first day of January next, and not sooner. Take effect.

Approved December 15, 1796.

AN ACT in addition to an act for regulating towns and the choice of town officers, passed February 8th, 1791. Approved Dec. 16, 1796.

WHEREAS in and by said act, it is among other things enacted, that where any town shall adjoin on any tract of land unincorporated, the perambulation may be so far as they join, exparte, and complaints having been made on that account; Preamble.

For remedy whereof,

BE it enacted by the Senate and House of Representatives in General Court convened, That said act shall extend to all unincorporated places, that are vested with all the powers which towns in this State by law have, so far as relates to the choice of assessors, selectmen Extended to unincorporated places.

selectmen and collectors, and such unincorporated places shall be considered to all intents and purposes, as the junior towns, and the selectmen or inhabitants shall be entitled to notice accordingly; and the selectmen shall have the same powers, and be liable to the same penalties for all the purposes before mentioned, as the selectmen of towns.

Repealing
clause.

And be it further enacted, That the above recited clause, so far as it relates to unincorporated places that are vested with the powers of towns in this State, to make choice of selectmen, assessors and collectors be and hereby is repealed.

Approved December 16, 1796.

Approved
Dec. 6,
1796.

AN ACT to ascertain and determine the time when an act, entitled, "An act for the limitation of actions, and preventing of vexatious suits," passed June 16, 1791, took effect.

Preamble.

WHEREAS doubts have arisen respecting the time when said act took effect:—Therefore,

Enacting
clause.

BE it enacted by the Senate and House of Representatives in General Court convened, That said act shall not be considered as having taken effect until the fifteenth day of September, in the year one thousand seven hundred and ninety-two; any particular expression in the aforesaid act to the contrary notwithstanding.

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Approved Dec. 6, 1796.

Approved
Dec. 15,
1796.

AN ACT fixing the time when the interest on State notes, bills of the new emission, and other evidences of debt shall cease.

Time when
to cease.

BE it enacted by the Senate and House of Representatives in General Court convened, That the interest on all State notes, bills of the new emission, and every other evidence of debt due from this State, cease from and after the thirty-first day of July next; and that the treasurer in all payments for State notes, bills of the new emission, and other evidences of debt govern himself accordingly.

The foregoing act was returned by his Excellency the Governor to the hon. House of Representatives with his objections thereto, and afterwards reconsidered and passed by that House, and approved by the Senate agreeably to the constitution, December 15, 1796.

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